



Treasury Laws Amendment (2020 Measures No. 5) Act 2020

No. 118, 2020

**An Act to amend the law relating to taxation and
superannuation, 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 (2020 Measures No. 5) Act 2020

No. 118, 2020

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

[Assented to 11 December 2020]

The Parliament of Australia enacts:

1 Short title

This Act is the *Treasury Laws Amendment (2020 Measures No. 5) Act 2020*.

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.	11 December 2020
2. Schedule 1	The day after this Act receives the Royal Assent.	12 December 2020
3. Schedule 2, Part 1	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 12 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	
4. Schedule 2, Part 2	The later of: (a) the commencement of the provisions covered by table item 3; and (b) immediately after the commencement of Schedule 1 to the <i>Treasury Laws Amendment (Reuniting More Superannuation) Act 2020</i> . However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	
5. Schedule 3	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	1 January 2021

Note: This table relates only to the provisions of this Act as originally enacted.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.

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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Making tax free certain small business grants relating to the coronavirus recovery

Income Tax Assessment Act 1997

1 Section 11-55 (table item headed “Coronavirus economic response payment”)

Repeal the item, substitute:

Coronavirus economic response

certain payments in accordance with the <i>Coronavirus Economic Response Package (Payments and Benefits) Act 2020</i>	59-95
State and Territory grants to small business relating to the recovery from the coronavirus.....	59-97

2 After section 59-95

Insert:

59-97 State and Territory grants to small business relating to the recovery from the coronavirus known as COVID-19

- (1) A payment an entity receives is not assessable income and is not *exempt income if:
- (a) the entity receives the payment under a grant program administered by:
 - (i) a State or a Territory; or
 - (ii) an authority of a State or a Territory; and
 - (b) the grant program is declared under subsection (3) to be an eligible program (whether this declaration is made before, on or after the day the entity receives the payment); and
 - (c) the entity receives the payment in the 2020-21 *financial year; and
 - (d) the entity is a *small business entity, or an entity covered by subsection (2), for the income year in which the entity receives the payment.

- (2) An entity is covered by this subsection for an income year if:
- (a) the entity is not a *small business entity for the income year; and
 - (b) the entity would be a small business entity for the income year if:
 - (i) each reference in Subdivision 328-C (about what is a small business entity) to \$10 million were instead a reference to \$50 million; and
 - (ii) the reference in paragraph 328-110(5)(b) to a small business entity were instead a reference to an entity covered by this subsection.
- (3) The Minister must, by legislative instrument, declare a grant program to be an eligible program if the Minister is satisfied that:
- (a) the program was first publicly announced on or after 13 September 2020 by the State, Territory or authority that is administering it; and
 - (b) the program is, in effect, responding to economic impacts of the coronavirus known as COVID-19; and
 - (c) the program is, in effect, directed at supporting businesses:
 - (i) who are the subject of a public health directive applying to a geographical area in which the businesses operate; and
 - (ii) whose operations have been significantly disrupted as a result of the public health directive; and
 - (d) the State, Territory or authority has requested the program to be declared to be an eligible program under this subsection.

3 Application of amendments

The amendments made by this Schedule apply in relation to the 2020-21 income year and later income years.

Schedule 2—Payment of amounts to KiwiSaver scheme provider

Part 1—Main amendments

Income Tax Assessment Act 1997

1 Section 11-55 (table item headed “superannuation”)

After:

KiwiSaver schemes, superannuation benefits paid from
complying superannuation funds to 312-15

insert:

KiwiSaver schemes, superannuation benefits paid by
Commissioner to 312-20

2 Section 11-55 (table item headed “superannuation”)

Omit:

unclaimed money payment 306-20

substitute:

unclaimed money payment to government 306-20

3 Section 312-1

Omit:

This Division deals with amounts transferred between KiwiSaver schemes and complying superannuation funds.

substitute:

This Division deals with amounts transferred between KiwiSaver schemes and complying superannuation funds. This Division also deals with amounts paid by the Commissioner to KiwiSaver schemes.

4 Section 312-5

After “with”, insert “the *Superannuation (Unclaimed Money and Lost Members) Act 1999* and”.

5 Section 312-15 (heading)

After “paid”, insert “from complying superannuation funds”.

6 At the end of Subdivision 312-C

Add:

312-20 Superannuation benefits paid by Commissioner to KiwiSaver schemes

An *unclaimed money payment that you are taken to receive under section 307-15 because it is paid to a KiwiSaver scheme provider by the Commissioner in accordance with the *Superannuation (Unclaimed Money and Lost Members) Act 1999* is not assessable income and is not *exempt income.

Superannuation (Unclaimed Money and Lost Members) Act 1999

7 Section 7

After:

(b) to a fund identified by the person; or

insert:

(ba) to a KiwiSaver scheme provider identified by the person; or

8 Section 7

Omit:

Superannuation of lost members

Schedule 2 Payment of amounts to KiwiSaver scheme provider
Part 1 Main amendments

At the times determined by the Commissioner, superannuation providers must give the Commissioner of Taxation details relating to:

- (a) small accounts of lost members; and
- (b) inactive accounts of unidentifiable lost members.

Superannuation providers must pay to the Commissioner of Taxation the value of any such accounts. Later, the Commissioner must, if satisfied that it is possible to do so, pay an amount he or she has received in respect of a person:

- (a) to a fund identified by the person; or
- (b) if the person has reached eligibility age or the amount is less than \$200—to the person; or
- (c) if the person has died—to the person's death beneficiaries or legal personal representative.

Superannuation of inactive low-balance members

At times determined by the Commissioner, superannuation providers must give the Commissioner of Taxation details relating to inactive low-balance accounts.

Superannuation providers must pay to the Commissioner of Taxation the value of any such accounts. Later, the Commissioner must, if satisfied that it is possible to do so, pay an amount the Commissioner has received in respect of a person:

- (a) to a fund identified by the person; or
- (b) if the person has reached eligibility age or the amount is less than \$200—to the person; or
- (c) if the person has died—to the person's death beneficiaries or legal personal representative.

substitute:

Superannuation of lost members

At the times determined by the Commissioner, superannuation providers must give the Commissioner of Taxation details relating to:

- (a) small accounts of lost members; and
- (b) inactive accounts of unidentifiable lost members.

Superannuation providers must pay to the Commissioner of Taxation the value of any such accounts. Later, the Commissioner must, if satisfied that it is possible to do so, pay an amount the Commissioner has received in respect of a person:

- (a) to a fund identified by the person; or
- (b) to a KiwiSaver scheme provider identified by the person; or
- (c) if the person has reached eligibility age or the amount is less than \$200—to the person; or
- (d) if the person has died—to the person's death beneficiaries or legal personal representative.

Superannuation of inactive low-balance members

At times determined by the Commissioner, superannuation providers must give the Commissioner of Taxation details relating to inactive low-balance accounts.

Superannuation providers must pay to the Commissioner of Taxation the value of any such accounts. Later, the Commissioner must, if satisfied that it is possible to do so, pay an amount the Commissioner has received in respect of a person:

- (a) to a fund identified by the person; or
- (b) to a KiwiSaver scheme provider identified by the person; or
- (c) if the person has reached eligibility age or the amount is less than \$200—to the person; or
- (d) if the person has died—to the person's death beneficiaries or legal personal representative.

9 Section 8

Insert:

KiwiSaver scheme has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

KiwiSaver scheme provider has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

10 After paragraph 17(2)(a)

Insert:

- (aa) to a single KiwiSaver scheme provider if:
 - (i) the person has not died; and
 - (ii) the person directs the Commissioner to pay to the KiwiSaver scheme provider; and
 - (iii) the matters (if any) prescribed by the regulations are satisfied; or

11 Paragraph 17(2AB)(a)

After “a fund,” insert “a KiwiSaver scheme provider.”

12 Paragraph 17(2AB)(b)

After “(2)(a),” insert “(aa),”.

13 Subsection 17(2AB)

After “the fund,” insert “KiwiSaver scheme provider.”

14 Paragraph 18B(1)(a)

After “this Part” insert “(other than a payment to a KiwiSaver scheme provider)”.

15 Paragraph 18C(1)(a)

Omit “subsection 17(2)”, substitute “paragraph 17(2)(a)”.

16 After paragraph 20H(2)(b)

Insert:

- (ba) to a single KiwiSaver scheme provider, if the person directs the Commissioner to pay to the provider and the matters (if any) prescribed by the regulations are satisfied; or

17 Subsection 20H(2AA)

After “fund” insert “, KiwiSaver scheme provider”.

18 Paragraph 20L(1)(a)

After “this Part”, insert “(other than a payment to a KiwiSaver scheme provider)”.

19 Paragraph 20M(1)(a)

Omit “subsection 20H(2), (2AA)”, substitute “paragraph 20H(2)(b) or subsection 20H(2AA)”.

20 After paragraph 20QF(2)(a)

Insert:

- (aa) to a single KiwiSaver scheme provider if:
 - (i) the person has not died; and
 - (ii) the person directs the Commissioner to pay to the KiwiSaver scheme provider; and
 - (iii) the matters (if any) prescribed by the regulations are satisfied; or

21 Paragraph 20QF(3)(a)

Omit “subparagraph (2)(a)(ii) does”, substitute “subparagraphs (2)(a)(ii) and (aa)(ii) do”.

22 Paragraph 20QF(5)(a)

After “a fund,”, insert “a KiwiSaver scheme provider,”.

23 Paragraph 20QF(5)(b)

After “(2)(a),”, insert “(aa),”.

24 Subsection 20QF(5)

After “the fund,”, insert “KiwiSaver scheme provider,”.

25 Paragraph 20QK(1)(a)

After “this Part”, insert “(other than a payment to a KiwiSaver scheme provider)”.

26 Paragraph 20QL(1)(a)

Omit “subsection 20QF(2) or (5)”, substitute “paragraph 20QF(2)(a) or subsection 20QF(5)”.

27 After paragraph 24G(2)(a)

Insert:

- (aa) to a single KiwiSaver scheme provider if:
 - (i) the person has not died; and
 - (ii) the person directs the Commissioner to pay to the KiwiSaver scheme provider; and
 - (iii) the matters (if any) prescribed by the regulations are satisfied; or

28 Paragraph 24G(2A)(a)

Omit “subparagraph (2)(a)(ii) does”, substitute “subparagraphs (2)(a)(ii) and (aa)(ii) do”.

29 Paragraph 24G(3A)(a)

After “a fund,”, insert “a KiwiSaver scheme provider,”.

30 Paragraph 24G(3A)(b)

After “(2)(a),” insert “(aa),”.

31 Subsection 24G(3A)

After “the fund,”, insert “KiwiSaver scheme provider,”.

32 Paragraph 24K(1)(a)

After “this Part”, insert “(other than a payment to a KiwiSaver scheme provider)”.

33 Paragraph 24L(1)(a)

Omit “subsection 24G(2) or (3A)”, substitute “paragraph 24G(2)(a) or subsection 24G(3A)”.

34 Application of amendments

The amendments of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* made by this Part apply in relation to payments of amounts made by the Commissioner on or after the commencement of this Part, regardless of when the amounts were received by the Commissioner.

Part 2—Contingent amendments

Superannuation (Unclaimed Money and Lost Members) Act 1999

35 Section 7

Omit:

Superannuation of eligible rollover fund members

Superannuation providers who are trustees of eligible rollover funds must, by 30 June 2020 and 30 June 2021, give the Commissioner of Taxation details relating to accounts of those funds.

Superannuation providers must pay to the Commissioner of Taxation the value of any such accounts. Payments must be made by 30 June 2020 (for accounts that had balances of less than \$6,000 on 1 June 2020) and 30 June 2021 (for all other accounts).

Later, the Commissioner must, if satisfied that it is possible to do so, pay an amount the Commissioner has received in respect of a person:

- (a) to a fund identified by the person; or
- (b) if the person has reached eligibility age or the amount is less than \$200—to the person; or
- (c) if the person has died—to the person's death beneficiaries or legal personal representative.

substitute:

Superannuation of eligible rollover fund members

Superannuation providers who are trustees of eligible rollover funds must, by 30 June 2020 and 30 June 2021, give the Commissioner of Taxation details relating to accounts of those funds.

Superannuation providers must pay to the Commissioner of Taxation the value of any such accounts. Payments must be made by 30 June 2020 (for accounts that had balances of less than \$6,000 on 1 June 2020) and 30 June 2021 (for all other accounts).

Later, the Commissioner must, if satisfied that it is possible to do so, pay an amount the Commissioner has received in respect of a person:

- (a) to a fund identified by the person; or
- (b) to a KiwiSaver scheme provider identified by the person; or
- (c) if the person has reached eligibility age or the amount is less than \$200—to the person; or
- (d) if the person has died—to the person's death beneficiaries or legal personal representative.

36 After paragraph 21E(2)(a)

Insert:

- (aa) to a single KiwiSaver scheme provider if:
 - (i) the person has not died; and
 - (ii) the person directs the Commissioner to pay to the KiwiSaver scheme provider; and
 - (iii) the matters (if any) prescribed by the regulations are satisfied; or

37 Paragraph 21E(3)(a)

Omit “subparagraph (2)(a)(ii) does”, substitute “subparagraphs (2)(a)(ii) and (aa)(ii) do”.

38 Paragraph 21E(5)(a)

After “a fund,”, insert “a KiwiSaver scheme provider,”.

39 Paragraph 21E(5)(b)

After “(2)(a),” insert “(aa),”.

40 Subsection 21E(5)

After “the fund,”, insert “KiwiSaver scheme provider,”.

41 Paragraph 21G(1)(a)

After “this Part”, insert “(other than a payment to a KiwiSaver scheme provider)”.

42 Paragraph 21H(1)(a)

Omit “subsection 21E(2) or (5)”, substitute “paragraph 21E(2)(a) or subsection 21E(5)”.

43 Application of amendments

The amendments of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* made by this Part apply in relation to payments of amounts made by the Commissioner on or after the commencement of this Part, regardless of when the amounts were received by the Commissioner.

Schedule 3—Deductible gift recipients

Income Tax Assessment Act 1997

1 In the appropriate position in subsection 30-45(2) (table)

Insert:

4.2.48	Neighbourhood Watch Australasia Limited	the gift must be made after 30 June 2019
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2 Section 30-315 (after table item 79)

Insert:

79A	Neighbourhood Watch Australasia Limited	item 4.2.48
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*[Minister's second reading speech made in—
House of Representatives on 11 November 2020
Senate on 9 December 2020]*

(149/20)
