



Treasury Laws Amendment (More Flexible Superannuation) Act 2021

No. 45, 2021

An Act to amend the law relating to taxation, 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 (More Flexible Superannuation) Act 2021

No. 45, 2021

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

[Assented to 22 June 2021]

The Parliament of Australia enacts:

1 Short title

This Act is the *Treasury Laws Amendment (More Flexible Superannuation) Act 2021*.

No. 45, 2021 *Treasury Laws Amendment (More Flexible Superannuation) Act 2021*

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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.	22 June 2021
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 July 2021
4. Schedule 3	1 July 2021.	1 July 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Note: This table relates only to the provisions of this Act as originally enacted.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.

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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

Income Tax Assessment Act 1997

1 Paragraph 292-85(3)(c)

Omit “65”, substitute “67”.

2 Application

The amendment made by this Schedule applies to non-concessional contributions made on or after 1 July 2020.

Schedule 2—Excess concessional contributions

Part 1—Amendments

Income Tax Assessment Act 1997

1 Section 26-74

Repeal the section.

2 Section 291-1 (note)

Omit “about a charge you may be liable to pay, and”.

3 Section 291-15 (note 2)

Repeal the note.

4 Subsection 995-1(1) (definition of excess concessional contributions charge)

Repeal the definition.

Taxation Administration Act 1953

5 Subsection 8AAB(4) (table item 44Q)

Repeal the item.

6 Division 95 in Schedule 1

Repeal the Division.

7 Section 97-1 in Schedule 1

Omit “and any excess concessional contributions charge”.

8 Section 97-5 in Schedule 1 (heading)

Omit “and charge”.

9 Section 97-5(1) in Schedule 1

Repeal the subsection, substitute:

(1) If you have *excess concessional contributions for a *financial year, the Commissioner must make a written determination stating the amount of those excess concessional contributions.

10 Subsection 250-10(2) in Schedule 1 (table item 37AD)

Repeal the item.

11 Subsection 250-10(2) in Schedule 1 (table item 135Q)

Repeal the item.

12 Subsection 280-100(4) in Schedule 1

Repeal the subsection.

Part 2—Repeal

*Superannuation (Excess Concessional Contributions
Charge) Act 2013*

13 The whole of the Act

Repeal the Act.

Part 3—Application

14 Application

The amendments made by this Schedule apply in relation to excess concessional contributions for a financial year starting on or after 1 July 2021.

Schedule 3—Re-contribution of COVID-19 early release superannuation amounts

Income Tax Assessment Act 1997

1 Subsection 290-150(2)

After “290-168”, insert “, 290-169”.

2 After section 290-168

Insert:

290-169 Contribution must not be a COVID-19 re-contribution

You cannot deduct the contribution if it is a contribution that is covered under section 292-103 (about COVID-19 re-contributions).

3 After subparagraph 292-90(2)(c)(iiia)

Insert:

(iiib) a contribution covered by section 292-103 (COVID-19 re-contributions);

4 After section 292-102

Insert:

292-103 COVID-19 re-contributions

- (1) A contribution is covered by this section if:
- (a) the contribution is made by you to a *complying superannuation plan in respect of you in a *financial year; and
 - (b) the contribution is made in the financial year beginning on 1 July 2021, or a later financial year ending on or before 30 June 2030; and
 - (c) one or more amounts (the *COVID-19 early release amounts*) have been paid to you from a complying superannuation

plan, in either or both of the financial years beginning on 1 July 2019 or 1 July 2020, because you satisfied:

- (i) a condition of release specified in item 107A or 207AA of the table in Schedule 1 to the *Superannuation Industry (Supervision) Regulations 1994*; or
 - (ii) a condition of release specified in item 109AA of the table in Schedule 2 to the *Retirement Savings Accounts Regulations 1997*; and
- (d) the amount of the contribution is not more than the total of your COVID-19 early release amounts; and
- (e) if you made one or more previous contributions covered by this section—the sum of:
- (i) the amount of the contribution; and
 - (ii) the amounts of those previous contributions;
- is not more than the total of your COVID-19 early release amounts; and
- (f) you choose, in accordance with subsection (2), to apply this section to the contribution.
- (2) To make a choice for the purposes of paragraph (1)(f), you must:
- (a) make the choice in the *approved form; and
 - (b) give it to the *superannuation provider in relation to the *complying superannuation plan on or before the time when the contribution is made.

[*Minister's second reading speech made in—
House of Representatives on 13 May 2020
Senate on 31 August 2020*]

(57/20)
