



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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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* 1

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Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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)
