





# **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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## Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedules.....	2
<b>Schedule 1—Bring forward non-concessional contributions cap</b>		<b>3</b>
	<i>Income Tax Assessment Act 1997</i>	3
<b>Schedule 2—Excess concessional contributions</b>		<b>4</b>
Part 1—Amendments		4
	<i>Income Tax Assessment Act 1997</i>	4
	<i>Taxation Administration Act 1953</i>	4
Part 2—Repeal		6
	<i>Superannuation (Excess Concessional Contributions Charge) Act 2013</i>	6
Part 3—Application		7
<b>Schedule 3—Re-contribution of COVID-19 early release superannuation amounts</b>		<b>8</b>
	<i>Income Tax Assessment Act 1997</i>	8





# Treasury Laws Amendment (More Flexible Superannuation) Act 2021

No. 45, 2021

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## 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*.

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

1

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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.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
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Note: This table relates only to the provisions of this Act as originally enacted.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:

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(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.

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

(57/20)

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