





# Income Tax Assessment Amendment Regulations 2008 (No. 3)

## Select Legislative Instrument 2008 No. 144

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I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Income Tax Assessment Act 1997*.

Dated 26 June 2008

P. M. JEFFERY  
Governor-General

By His Excellency's Command

NICK SHERRY  
Minister for Superannuation and Corporate Law

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**1 Name of Regulations**

These Regulations are the *Income Tax Assessment Amendment Regulations 2008 (No. 3)*.

**2 Commencement**

These Regulations commence, or are taken to have commenced, as follows:

- (a) on 1 July 2007 — regulations 1, 2 and 3 and Schedule 1;
- (b) on the day after they are registered — regulation 4 and Schedule 2.

**3 Amendment of *Income Tax Assessment Regulations 1997***

Schedule 1 amends the *Income Tax Assessment Regulations 1997*.

**4 Amendment of *Income Tax Assessment Regulations 1997***

Schedule 2 amends the *Income Tax Assessment Regulations 1997*.

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## Schedule 1      Amendments taken to have commenced on 1 July 2007

(regulation 3)

### [1]      After Division 302

*insert*

## Division 303      Superannuation benefits paid in special circumstances

### 303–10.01      Meaning of *terminal medical condition*

For section 303–10 of the Act, a *terminal medical condition* exists in relation to a person at a particular time if the following circumstances exist:

- (a) two registered medical practitioners have certified, jointly or separately, that the person suffers from an illness, or has incurred an injury, that is likely to result in the death of the person within a period (the *certification period*) that ends not more than 12 months after the date of the certification;
- (b) at least one of the registered medical practitioners is a specialist practising in an area related to the illness or injury suffered by the person;
- (c) for each of the certificates, the certification period has not ended.

### [2]      Regulation 995–1.01, after the definition of *superannuation salary*

*insert*

*terminal medical condition* has the meaning given by regulation 303–10.01.

## **Schedule 2      Amendment commencing on the day after registration**

(regulation 4)

### **[1]      Regulation 306–10.01**

*substitute*

#### **306-10.01      Roll-over superannuation benefit**

For paragraph 306–10 (b) of the Act, a kind of superannuation benefit is:

- (a) a benefit to which the following requirements exist:
  - (i) the benefit arises from the commutation of a superannuation income stream paid to a person (*person 1*) because of the death of another person (*person 2*); and
  - (ii) person 1 was not the spouse of person 2 at the time of person 2's death; or
- (b) a benefit to which section 303–10 of the Act, or section 303–10 of the *Income Tax (Transitional Provisions) Act 1997*, applies.

*Note* Under section 306-10 of the Act, a superannuation benefit is a roll-over superannuation benefit if it meets the requirements specified in the section. One of the requirements is that the benefit is not a superannuation benefit of a kind specified in the Regulations.