



Superannuation (Departing Australia Superannuation Payments Tax) Act 2007

No. 13, 2007

Compilation No. 5

Compilation date: 2 December 2016

Includes amendments up to: Act No. 94, 2016

Registered: 8 December 2016

Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Superannuation (Departing Australia Superannuation Payments Tax) Act 2007* that shows the text of the law as amended and in force on 2 December 2016 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act to impose tax on departing Australia superannuation payments, and for related purposes

1 Short title

This Act may be cited as the *Superannuation (Departing Australia Superannuation Payments Tax) Act 2007*.

2 Commencement

This Act commences on 1 July 2007.

3 Definitions

In this Act:

departing Australia superannuation payment has the same meaning as in the *Income Tax Assessment Act 1997*.

element taxed in the fund has the same meaning as in the *Income Tax Assessment Act 1997*.

element untaxed in the fund has the same meaning as in the *Income Tax Assessment Act 1997*.

excess untaxed roll-over amount has the same meaning as in the *Income Tax Assessment Act 1997*.

roll-over superannuation benefit has the same meaning as in the *Income Tax Assessment Act 1997*.

taxable component has the same meaning as in the *Income Tax Assessment Act 1997*.

tax free component has the same meaning as in the *Income Tax Assessment Act 1997*.

4 Imposition of tax

Tax payable on a departing Australia superannuation payment under subsection 301-175(2) of the *Income Tax Assessment Act 1997* is imposed.

5 Amount of tax

- (1) The amount of the tax is as follows:
 - (a) for the tax free component of the departing Australia superannuation payment—nil;
 - (b) for the element taxed in the fund of the taxable component of the departing Australia superannuation payment—35%;
 - (c) for the element untaxed in the fund of the taxable component of the departing Australia superannuation payment—45%.
- (2) However, if the departing Australia superannuation payment is a roll-over superannuation benefit paid under subsection 20H(2), (2AA) or (2A) of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*, the amount of the tax for the element untaxed in the fund of the taxable component of the payment is:
 - (a) for the amount (if any) of the element that is not an excess untaxed roll-over amount—45%; and
 - (b) for the amount (if any) of the element that is an excess untaxed roll-over amount—nil.

Note: The tax for the excess untaxed roll-over amount is set at nil to avoid double taxation of that amount, which is also subject to tax under the *Superannuation (Excess Untaxed Roll-over Amounts Tax) Act 2007*.

- (3) Despite subsections (1) and (2), if the departing Australia superannuation payment:
 - (a) is paid to a person on or after 1 July 2017; and
 - (b) includes amounts attributable to superannuation contributions made while the person was a working holiday maker (within the meaning of the *Income Tax Rates Act 1986*);those subsections apply as if the percentages in paragraphs (1)(b) and (c) and (2)(a) were 65%.

6 Temporary budget repair levy

- (1) This section applies to departing Australia superannuation payments received in a temporary budget repair levy year.
- (2) Increase:
 - (a) the percentage mentioned in paragraph 5(1)(b) by 3 percentage points; and
 - (b) the percentage mentioned in paragraph 5(1)(c) by 2 percentage points; and
 - (c) the percentage mentioned in paragraph 5(2)(a) by 2 percentage points.
- (3) In this section:

temporary budget repair levy year has the same meaning as in section 4-11 of the *Income Tax (Transitional Provisions) Act 1997*.

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

Endnote 1—About the endnotes

be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnotes

Endnote 2—Abbreviation key

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ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Superannuation (Departing Australia Superannuation Payments Tax) Act 2007	13, 2007	15 Mar 2007	1 July 2007 (s 2)	
Superannuation (Departing Australia Superannuation Payments Tax) Amendment Act 2008	152, 2008	11 Dec 2008	Sch 1: 1 Apr 2009 (s 2(1) item 2)	Sch 1 (item 7)
Tax and Superannuation Laws Amendment (2013 Measures No. 1) Act 2013	88, 2013	28 June 2013	Sch 1 (item 19): 28 June 2013 (s 2(1) item 2)	—
Superannuation (Departing Australia Superannuation Payments Tax) Amendment (Temporary Budget Repair Levy) Act 2014	51, 2014	25 June 2014	25 June 2014 (s 2(1) items 1, 2)	—
Superannuation (Departing Australia Superannuation Payments Tax) Amendment Act 2016	90, 2016	2 Dec 2016	2 Dec 2016 (s 2(1) item 1)	—
Superannuation (Departing Australia Superannuation Payments Tax) Amendment Act (No. 2) 2016	94, 2016	2 Dec 2016	2 Dec 2016 (s 2(1) item 1)	—

Superannuation (Departing Australia Superannuation Payments Tax) Act 2007

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Compilation date: 2/12/16

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Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
s 3	am No 152, 2008
s 5	am No 152, 2008; No 88, 2013; No 90, 2016; No 94, 2016
s 6	ad No 51, 2014