Superannuation (Departing Australia Superannuation Payments Tax) Amendment Act 2008

No. 152, 2008

An Act to amend the *Superannuation (Departing Australia Superannuation Payments Tax) Act 2007*, and for related purposes

Note: An electronic version of this Act is available in ComLaw (http://www.comlaw.gov.au/)

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No. 152, 2008

An Act to amend the *Superannuation (Departing Australia Superannuation Payments Tax) Act 2007*, and for related purposes

[*Assented to 11 December 2008*]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Superannuation (Departing Australia Superannuation Payments Tax) Amendment Act 2008*.

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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
Provision(s)	**Commencement**	**Date/Details**
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	11 December 2008
2. Schedule 1	A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.	1 April 2009 (*see* F2008L04639)

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

(2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Amendments

Superannuation (Departing Australia Superannuation Payments Tax) Act 2007

1 Section 3

Insert:

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

2 Section 3

Insert:

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

3 Section 5

Before "The", insert "(1)".

4 Paragraph 5(b)

Omit "30%", substitute "35%".

5 Paragraph 5(c)

Omit "40%", substitute "45%".

6 At the end of section 5

Add:

(2) However, if the departing Australia superannuation payment is a roll-over superannuation benefit paid under section 20H 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.

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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*.

7 Application of amendments of section 5

The amendments of section 5 of the *Superannuation (Departing Australia Superannuation Payments Tax) Act 2007* made by this Schedule apply to departing Australia superannuation payments made on or after the commencement of this Schedule, except payments made as a result of requests made before that commencement.

Note: Section 5 of the *Superannuation (Departing Australia Superannuation Payments Tax) Act 2007* as in force before the commencement of this Schedule continues to apply to payments made on or after that commencement as a result of requests made before that commencement.

[*Minister's second reading speech made in—*
House of Representatives on 25 September 2008
Senate on 10 November 2008]

(191/08)

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