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Statutory Rules 1997 No. *K1*

3711

Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Regulations

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997*.

Dated *K* 1997.

8 December

K WILLIAM DEANE
Governor-General

By His Excellency's Command,

K

C.R. KEMP

Assistant Treasurer

PART 1—PRELIMINARY

Citation

1. These Regulations may be cited as the Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Regulations.

[NOTE: These Regulations commence on gazettal: see *Acts Interpretation Act 1901*, s 48.]

Definitions

2. In these Regulations, unless the contrary intention appears:

“client identifier” means a number or other unique identification assigned by a superannuation provider to a member’s accounts for linking all dealings by the provider with the member;

“contributed amounts paid/transferred out statement” means a statement under subsection 12 (3) of the Act for a member;

“destination superannuation provider superfund number” means the first 6 digits of the superannuation fund number of a destination superannuation provider;

“direct employer-contributed amount” means:

- (a) for a superannuation (accumulated benefits) provider—the total of the amounts referred to in subparagraphs 12 (5) (a) (i) and (iii) of the Act for a member, less any roll-in employer-contributed amount for the member; or
- (b) for a superannuation (defined benefits) provider—the amount referred to in paragraph 12 (5) (b) of the Act for a member, less any roll-in employer-contributed amount for the member;

“direct specified roll-over amount” means the total amount referred to in subparagraph 12 (5) (a) (ii) of the Act for a member, less any roll-in specified roll-over amount for the member;

“document” includes any electronic communication that represents or reproduces words, figures or symbols in visible form;

“information” includes information in written or electronic form;

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“Insurance and Superannuation Commissioner” means the Insurance and Superannuation Commissioner appointed under the *Insurance and Superannuation Commissioner Act 1987*;

“lump sum/pension payable statement” means a statement under subsection 12 (6) of the Act for a member;

“member account number” means the unique combination of characters (whether letters or numbers) used by a superannuation provider to identify a member’s account with the provider;

“member contributions statement” means a statement under subsection 12 (2) of the Act for a member;

“PAYE group number”, for an employer, means the number assigned to the employer as a registered group employer under section 221F of the Income Tax Assessment Act;

“reporting day” means:

- (a) in 1998—15 February, 15 April and 15 July; and
- (b) in 1999 and subsequent years—15 January, 15 April and 15 July;

“roll-in employer-contributed amount” means so much of the total of the amounts referred to in subparagraphs 12 (5) (a) (i) and (iii) of the Act, and of the amount referred to in paragraph 12 (5) (b) of the Act, as applicable, for a member as is received by the member’s superannuation provider from another superannuation provider of the member;

“roll-in specified roll-over amount” means so much of the total amount referred to in subparagraph 12 (5) (a) (ii) of the Act for a member as is received by the member’s superannuation provider from another superannuation provider of the member;

“superannuation fund number” means the number assigned to a superannuation provider by the Insurance and Superannuation Commissioner;

“supplier”, in relation to information given or to be given to the Commissioner, means:

- (a) a superannuation provider; or
- (b) a person who is an agent of the superannuation provider for the purpose of giving information to the Commissioner;

“tax file number statement” means a statement referred to in subregulation 11 (1);

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“**the Act**” means the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997*.

[NOTE: A number of expressions used in these Regulations are defined by section 37 of the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997*, including:

- Assessment
- Commissioner
- Contributed amounts
- Income Tax Assessment Act
- Interest
- Late payment penalty
- Member
- Specified roll-over amount
- Superannuation (accumulated benefits) provider
- Superannuation (defined benefits) provider
- Superannuation provider
- Surcharge
- Year of income.]

PART 2—STATEMENTS BY SUPERANNUATION PROVIDERS—ADDITIONAL INFORMATION

Member contributions statement—additional information (Act, subsection 12 (2))

3. (1) A member contributions statement must include information (where applicable) on the matters set out in Schedule 1.

(2) Those matters comprise:

- (a) matters required by paragraphs 12 (2) (a) and (b) of the Act to be set out in the statement (which are marked with an asterisk* in the Schedule); and
- (b) matters that, under paragraph 12 (2) (c) of the Act, are required by these Regulations to be so set out (which are unmarked).

Contributed amounts paid/transferred out statement—additional information (Act, subsection 12 (3))

4. (1) A contributed amounts paid/transferred out statement must include information (where applicable) on the matters set out in Schedule 2.

- (2) Those matters include:
 - (a) matters required by paragraphs 12 (3) (a), (b) and (c) of the Act to be set out in the statement (which are marked with an asterisk* in the Schedule); and
 - (b) matters that, under paragraph 12 (3) (d) of the Act, are required by these Regulations to be so set out (which are unmarked).

**Lump sum/pension payable statement—additional information
(Act, subsection 12 (6))**

5. A lump sum/pension payable statement must include, in addition to matters that are required by paragraphs 12 (6) (a), (b) and (c) of the Act, information (where applicable) on the matters set out in Schedule 3.

PART 3—INFORMATION GENERALLY

Form of information to be given to the Commissioner

6. (1) This regulation applies to information to be given by a person to the Commissioner under the Act or these Regulations, other than information to be contained in a statement under section 12 of the Act.

- (2) The information must be given:
 - (a) if a form for the information is specified or approved by the Commissioner—in that form; and
 - (b) if a medium for the information is specified or approved by the Commissioner—in that medium; and
 - (c) if a format for the information is specified or approved by the Commissioner—in that format.
- (3) The Commissioner may specify or approve different forms, formats and media:
 - (a) for information to be given by different types of superannuation providers or other persons; or
 - (b) for use in different circumstances.

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(4) If a specified or approved form so provides, the person must:

- (a) sign the form or include identification of the person in the form; and
- (b) verify the information by a declaration as set out in the form.

(5) Any information that accompanies other information that is given to the Commissioner in a specified or approved form must include:

- (a) the signature or other identification of the person giving the information in the form; and
- (b) an endorsement that identifies the information as accompanying the information given in the form.

Where information is to be given

7. (1) If the Commissioner specifies or directs that a person or class of persons must give information (whether or not in a specified or approved form) required by the Act or these Regulations at a particular address, the person or class of persons must give the information at that address.

(2) If the Commissioner does not specify or direct that information be given at a particular address, the information may be given at any office of a Deputy Commissioner.

How an address for service will be determined

8. (1) The address for service last given to the Commissioner by any person is for all purposes under the Act and these Regulations that person's address for service.

- (2) However, if:
- (a) no address for service has been given to the Commissioner; or
 - (b) the Commissioner's records show that the person has later changed the address and has not given a new address to the Commissioner;

the address of the person as set out in any record in the custody of the Commissioner is the person's address for service.

Last known place of business or residence

9. The address for service of a person as determined under regulation 8 is to be, for all purposes under the Act and these Regulations, the person's last known place of business or residence in Australia.

Change or omission in information given to the Commissioner

10. (1) If at any time a superannuation provider becomes aware of a change or omission in any information given to the Commissioner, the provider must:

- (a) inform the Commissioner of the change; or
- (b) give the omitted information to the Commissioner;

as the case requires, unless the provider is reasonably satisfied that the change or omission will not affect an assessment.

- (2) Information required by subregulation (1) must be given:
 - (a) if the provider becomes aware of the change or omission not less than 30 days before the next reporting day—before that reporting day; or
 - (b) in any other case—before the reporting day after the next reporting day.

Giving a tax file number statement to the Commissioner

11. (1) If:

- (a) a superannuation provider has given information to the Commissioner in connection with the operation of the Act or these Regulations in relation to a member; and
- (b) the member did not quote his or her tax file number to the provider in connection with the operation or possible future operation of the Act before the information was given; and
- (c) the member later quotes the tax file number to the provider in connection with the operation or possible future operation of the Act;

the provider must give a statement to the Commissioner that includes information on the matters set out in Schedule 4.

(2) A tax file number statement must be given to the Commissioner:

- (a) if it is quoted to the provider not less than 30 days before the next reporting day—before that reporting day; or
- (b) in any other case—before the reporting day after the next reporting day.

[NOTE: Superannuation providers must comply with any guidelines relating to tax file number information issued by the Privacy Commissioner under section 17 of the *Privacy Act 1988*.]

Commissioner may cause information to be marked or annotated

12. (1) The Commissioner may cause or permit an officer of the Commissioner to make any marks, figures or annotations that the Commissioner thinks fit in or on any information given to the Commissioner.

(2) The marks, figures and annotations must be made in a way that makes them distinguishable from the information given to the Commissioner.

Need to give information in the required form and manner

13. (1) A person is not taken to have given information to the Commissioner for the Act or these Regulations until the Commissioner accepts the information.

- (2) The Commissioner must accept the information if it:
- (a) gives a complete and accurate statement of all the matters required by the Act and these Regulations, to the extent that information about those matters is known to the person; and
 - (b) is given in the form and manner required by the Act and these Regulations; and
 - (c) is signed or otherwise identified by the person giving the information as required by the Act or these Regulations.

(3) The acceptance of any information by the Commissioner does not affect the requirements of the Act or these Regulations in relation to any other information given or to be given to the Commissioner.

Commissioner may request information

14. The Commissioner may at any time request any person or class of persons to give information in connection with the operation or possible future operation of the Act or these Regulations.

PART 4—MISCELLANEOUS

Services of notices etc

15. (1) Any notice or other document given by or on behalf of the Commissioner under the Act or these Regulations may be served on any person by:

- (a) delivering it personally to the person; or
- (b) leaving it at the person's address for service; or
- (c) sending it by electronic transmission:
 - (i) to a facility maintained by the person for the receipt of electronically transmitted documents; or
 - (ii) in such a manner that the document should, in the ordinary course of events, be received by the person; or
- (d) posting it by prepaid letter post, addressed to the person at his or her address for service.

(2) In the absence of proof to the contrary, a notice or other document served on a person in accordance with subregulation (1) is taken to have been served:

- (a) in the case of service in accordance with paragraph (1) (a), (b), or (c)—when the notice or document is delivered, left or transmitted, as the case requires; and

- (b) in the case of service in accordance with paragraph (1) (d)—when the notice or document would, in the ordinary course of post, have arrived at the place to which it was addressed.

Presumption as to signatures

16. (1) Judicial notice must be taken of the names and signatures of the persons who are, or were at any time, the Commissioner, a Second Commissioner, a Deputy Commissioner or a delegate of the Commissioner.

(2) A notice or other document that bears the written, printed or stamped name (including a facsimile of the signature) of a person who is, or was at any time, the Commissioner, a Second Commissioner, a Deputy Commissioner or a delegate of the Commissioner in place of that person's signature, is to be taken as signed by that person unless it is proved that the document was issued without authority.

Amounts of interest to be rounded down—surcharge debt accounts

17. If interest calculated under subsection 15 (4) of the Act for a member is an amount of whole dollars and an amount of cents, the amount of cents is to be disregarded.

Amounts remitted or refunded to be rounded up

18. If an amount of surcharge, interest or late payment penalty to be refunded or remitted under the Act is not a multiple of 5 cents, the amount is to be increased to the nearest multiple of 5 cents.

**Expenses for persons attending before the Commissioner (Act,
subsection 32 (4))**

19. The scale of expenses set out in Schedule 5 is prescribed for expenses to be allowed to persons (other than persons giving information or answering questions in respect of their own income or assessment or the income or assessment of persons whose representatives they are) required to attend under section 32 of the Act.

SCHEDULE 1

Regulation 3

**MEMBER CONTRIBUTIONS STATEMENT—ADDITIONAL
MATTERS**

Supplier Information

Supplier number
Run type (test/production) (for information in electronic form only)
File creation date
Supplier's preferred correspondence method
Medium specification version number (that is, the specification
version number used to create the file)
Supplier's organisation name
Supplier's Australian company number (ACN) or Australian
registered business number (ARBN)
Supplier's contact name
Contact telephone number
Contact fax number
Supplier's street address
Supplier's postal address
Supplier's e-mail address

Superannuation Provider Information

Superannuation provider's tax file number
Superannuation provider's superannuation fund number (SFN)
Date of report
Superannuation provider's current name
Superannuation provider's previous name (if any)
Contact name
Contact phone number
Contact fax number
Superannuation provider's street address
Superannuation provider's current postal address
Superannuation provider's previous postal address
Superannuation provider's address for service indicator
Superannuation provider's preferred correspondence method
Software product type
Superannuation provider's e-mail address
Superannuation administrator indicator

SCHEDULE 1—continued

Electronic Funds Transfer (EFT) request type
Financial institution BSB number
Financial institution account number
Financial institution account name
Fund benefit structure

Member Information

System code
Superannuation provider member account number
Superannuation provider client identifier
Account benefit structure
Account opened date
Account status (whether active or closed)
Member's tax file number (if given to the provider in connection
with the operation or possible future operation of the Act)*
Member's name*
Member's previous name (if any)
Member's sex
Member's date of birth*
Member's residential address*
Correspondence returned indicator
Whether the member is deceased

Employer Information

(Only required where the member's residential address is not
shown.)

Employer's name
Employer's trading name
Employer's PAYE group number
Employer's business address

SCHEDULE 1—continued

Contributed Amounts Information

Period start date
Period end date
Total of contributed amounts*
Direct employer-contributed amount
Direct specified roll-over amount
Roll-in employer-contributed amount
Roll-in specified rollover amount

SCHEDULE 2

Regulation 4

**CONTRIBUTED AMOUNTS PAID/TRANSFERRED OUT
STATEMENT—ADDITIONAL INFORMATION**

Member Contributions Information

Information on the matters set out in the member contributions statement*

Contributed Amounts Paid/transferred Out Information

Destination type

Name of destination superannuation provider*

Destination superannuation provider street address*

Destination superannuation provider postal address

Destination superannuation provider superfund number (SFN)

Destination superannuation provider member account number

Destination superannuation provider client identifier

Payment date

Transfer date

Paid/transferred amount or total amounts mentioned in subsection
12 (5) of the Act*

SCHEDULE 3

Regulation 5

LUMP SUM/PENSION PAYABLE STATEMENT

Supplier Information

Information on the matters set out under the heading “Supplier Information” in Schedule 1.

Superannuation Provider information

Information on the matters set out under the heading “Superannuation Provider Information” in Schedule 1.

Member Information

Information on the matters set out under the heading “Member Information” in Schedule 1.

Employer Information

(Only required where the member’s residential address is not shown.)

Information on the matters set out under the heading “Employer Information” in Schedule 1.

SCHEDULE 4

Subregulation 11 (1)

TAX FILE NUMBER STATEMENT

Supplier Information

Information on the matters set out under the heading “Supplier Information” in Schedule 1.

Superannuation Provider information

Information on the matters set out under the heading “Superannuation Provider Information” in Schedule 1.

Member Information

Information on the matters set out under the heading “Member Information” in Schedule 1.

Employer Information

(Only required where the member’s residential address is not shown.)

Information on the matters set out under the heading “Employer Information” in Schedule 1.

SCHEDULE 5

Regulation 19

SCALE OF EXPENSES

1. Person attending because of his or her professional, scientific or other special skill or knowledge—for each day on which the person attends, the amount provided for in the High Court Rules as in force from time to time for the expenses of witnesses possessing that skill or knowledge.

2. Person attending, other than a person referred to in item 1:

- (a) if the person is remunerated by wages, salary or fees—the amount provided for in the High Court Rules as in force from time to time for the expenses of witnesses so remunerated; or
- (b) in any other case—the amount provided for in the High Court Rules as in force from time to time for the expenses of witnesses generally.

3. Person attending as an expert—in addition to any other amount payable to that person under item 1 or 2, a reasonable amount for qualifying to answer questions as an expert.

4. Any person attending to give evidence—a reasonable amount:

- (a) for the person's travel to and from the place at which the person attends; and
- (b) if that person must be absent overnight from that person's usual place of residence—for meals and accommodation.

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on

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15 December /
1997.