



Lodgment of income tax returns for the year of income ended 30 June 2010 in accordance with the *Income Tax Assessment Act 1936* and the *Taxation Administration Act 1953* – Child Support Agency - parents with a child support assessment

Explanatory Statement

General outline of Instrument:

1. This Instrument requires liable and recipient parents under a child support assessment to lodge an annual income tax return, in the approved form, by the due date for lodgment.
2. The proposed Instrument will be a Legislative Instrument for the purposes of the *Legislative Instruments Act 2003* and it is legally binding on the Commissioner of Taxation (“the Commissioner”).

Date of effect:

3. The Instrument applies to the year of income ended 30 June 2010 or an approved period in lieu and is effective from the day after it is registered.

What is this Instrument about:

4. The principal purpose of the Instrument is to require lodgment of income tax returns in accordance with section 161 of the *Income Tax Assessment Act 1936* for a year of income by specifying who is required to lodge and to stipulate the date by which they are to lodge. The Instrument establishes the due date for lodgment of returns which can be deferred by the exercise of the Commissioner’s discretion under section 388-55 of Schedule 1 to the *Taxation Administration Act 1953*, for example the deferred due dates for returns lodged under the tax agent lodgment program.

What is the effect of this Instrument:

5. The effect of this Instrument is that those persons who are either the liable parent under a child support assessment or a parent receiving child support under a child support assessment who are required to lodge returns have notice of their obligations to lodge returns in the approved form and the date by which they must be lodged and the penalty that may be applied for failure to lodge on time.
6. The Instrument provides that all persons who were either a liable parent or a recipient parent under a child support assessment must lodge a return unless

- their taxable income was less than **\$19,618 and**
- they received listed Australian Government pensions, allowances or payments for the whole of the 2009-10 income year.

Compliance cost impact:

7. Compliance cost impact: An assessment of the compliance cost impact indicates that the impact will be no change for both implementation and on-going compliance costs. The instrument is routine in nature.

Background:

8. Since the commencement of the *Income Tax Assessment Act 1936*, section 161 of that Act refers to the requirement to lodge an annual return. Every person must, if required by the Commissioner, give to the Commissioner a return for a year of income within the period specified in the notice.
9. Each year the Commissioner publishes a notice that sets out the requirements for certain taxpayers to lodge returns and the date by which they must be lodged. It also identifies classes of taxpayers who are not required to lodge a return.
10. Under changes to the *Child Support (Assessment) Act 1989*, which came into effect on 1 July 2009 the child support assessment will rely on the taxable income of both parents.
11. Due to this change in the legislation and the assessment process, both liable and recipient parents will be required to lodge returns this year.
12. A separate notice has been made to require this class of taxpayers to lodge a return regardless of their income if they are parents who are party to a child support assessment. However, certain parents are excluded from this requirement to lodge a return, based on a taxable income threshold and the receipt of certain government pensions, allowances and payments for the whole year.
13. This Legislative Instrument creates an obligation to lodge an income tax return notwithstanding the fact that these taxpayers may not have to lodge in terms of the Legislative Instrument 2010/TPALS/0007 cited as 'Lodgment of returns for the year of income ended 30 June 2010 in accordance with the *Income Tax Assessment Act 1936*, the *Income Tax Assessment Act 1997*, the *Taxation Administration Act 1953*, the *Superannuation Industry (Supervision) Act 1993* and the *Income Tax (Transitional Provisions) Act 1997*'
14. This notice sets out in detail the requirements for a 'parent' with a child support assessment to lodge a return, as well as supplementary information such as the requirement for lodgment in the approved form and the penalties that may be applied for failing to lodge the return on time.

Consultation:

15. There has been consultation with Department of Human Services, Department of Family and Community Services and Indigenous Affairs and the Child Support Agency in relation to this Instrument. This is a machinery provision and a requirement of section 161 of the *Income Tax Assessment Act 1936* and it is a long standing practice to publish the due dates for lodgment of returns for each financial year and who must lodge them.