

EXPLANATORY STATEMENT

Select Legislative Instrument 2012 No. 92

Issued by authority of the Treasurer

Taxation Administration Act 1953

Taxation Administration Amendment Regulation 2012 (No. 2)

Section 18 of the *Taxation Administration Act 1953 Act* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The purpose of the amending Regulation was to: change the amount of low income tax offset (LITO) that the Commissioner of Taxation can take into account of in determining schedules at which income tax is withheld; and to take account of the merger of the senior Australians tax offset (SATO) and the pensioner tax offset (PTO) into the new seniors and pensioners tax offset (SAPTO) (*Income Tax Amendment Regulation 2012 (No. 1)* refers).

The amending Regulation amended the *Taxation Administration Regulations 1976* (the Principal Regulations) to decrease the proportion of the LITO that is delivered through reduced withholding from 70 per cent to 18 per cent for the 2012-13, 2013-14 and 2014-15 income years, and to zero from 2015-16 onward. This change means that taxpayers will receive a smaller proportion of their LITO entitlement during the year.

As part of the Government's Clean Energy Future Plan, the *Clean Energy (Income Tax Rates Amendments) Act 2011* and the *Clean Energy (Tax Laws Amendments) Act 2011* amended the *Income Tax Rates Act 1986* and the *Income Tax Assessment Act 1936* respectively to increase the statutory tax free threshold and reduce the LITO to deliver tax cuts and more timely tax relief to low- and middle-income individuals. Section 159N of the *Income Tax Assessment Act 1936* allows a person to claim the LITO.

These changes mean that from 1 July 2012, a person is entitled to the full value of the LITO (\$445) provided that person's income does not exceed \$37,000. The LITO can only be used to reduce a person's tax liability to zero, not to provide a net tax refund. For every dollar of income above \$37,000, the benefit is withdrawn by 1.5 cents and is completely extinguished for income above \$66,667.

From 1 July 2015, a person is entitled to the full value of the LITO (\$300) provided that person's income does not exceed \$37,000. For every dollar of income above \$37,000, the benefit is withdrawn by 1 cent and is completely extinguished for income above \$67,000.

Paragraph 15-30(d) of Schedule 1 to the Act provides that the Commissioner may take account of a number of prescribed tax offsets in determining schedules at which

income tax is withheld at. These prescribed tax offsets are listed in regulation 24 of the Principal Regulations and include 70 per cent of the amount of the LITO, with the remaining 30 per cent of the LITO being delivered on assessment.

Item 1 and Item 2 of Schedule 1 of the amending Regulation amended paragraph 24(d) and paragraph 26(j) respectively of the Principal Regulations to recognise that the PTO and SATO have been merged into the SAPTO.

Item 1 of Schedule 1 of the amending Regulation amended paragraph 24(e) of the Principal Regulations to specify that the Commissioner is able to take into consideration 70 per cent of the amount of the LITO when making income tax withholding schedules for a year of income commencing before 1 July 2012.

Item 1 of Schedule 1 of the amending Regulation inserted paragraph 24(f) into the Principal Regulations to specify that the Commissioner is able to take into consideration 18 per cent of the amount of the LITO when making income tax withholding schedules for the years of income commencing on 1 July 2012, 1 July 2013 and 1 July 2014.

As a result of the amending Regulations, someone with an annual income of up to \$37,000 will receive around \$80 of LITO during the year in their regular pay, and the remaining \$365 on assessment. A person's total LITO entitlement for any one year will remain unchanged. Single seniors and pensioners with an annual income of up to \$32,279 will receive \$2,230 of SAPTO during the year in their regular pay.

No consultation was undertaken as the amendments are minor and machinery in nature.

The Regulation Impact Statement (RIS) for the mechanism, entitled *Australia's plan for a clean energy future*, is available at <http://ris.finance.gov.au>. The RIS was prepared by the Department of Climate Change and Energy Efficiency and has been assessed as adequate by the Office of Best Practice Regulation.

A statement of compatibility with human rights is provided at Attachment A.

The amending regulation commences on the commencement of Schedule 3 of the *Clean Energy (Tax Laws Amendments) Act 2011*.

ATTACHMENT A

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Taxation Administration Amendment Regulation 2012 (No. 2)

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The purpose of the Legislative Instrument is to amend the *Taxation Administration Regulations 1976* (the Principal Regulations) to decrease the proportion of the low income tax offset (LITO) that is delivered through reduced withholding from 70 per cent to 18 per cent for the 2012-13, 2013-14 and 2014-15 income years, and to zero from 2015-16 onward. This change means that taxpayers will receive a smaller proportion of their LITO entitlement during the year.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Wayne Maxwell Swan Deputy Prime Minister and Treasurer