



Lodgment of income tax returns for the year of income ended 30 June 2014 in accordance with the *Income Tax Assessment Act 1936* and the *Taxation Administration Act 1953* – Department of Human Services - 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 2014 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 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 income calculated in accordance with the legislative instrument was less than \$23 523 **and**
 - they received listed Australian Government pensions, allowances or payments for the whole of the 2013-14 income year.

Compliance cost impact:

7. An assessment of the compliance cost impact indicates that the impact will be minor for both implementation and on-going compliance costs. The new instrument is of a minor or machinery 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 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 an 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 2014/TPALS/0001 cited as 'Lodgment of returns for the year of income ended 30 June 2014 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 legislative instrument 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 previous consultation with Department of Human Services, 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 income year and who must lodge them.

Christopher David Jordan AO
Commissioner of Taxation
04 June 2014

Statement of Compatibility with Human Rights

This Statement is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Lodgment of income tax returns for the year of income ended 30 June 2014 in accordance with the *Income Tax Assessment Act 1936* and the *Taxation Administration Act 1953* – Department of Human Services - parents with a child support assessment

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

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.

Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms as it simply provides notice to those persons who are either the liable parent under a child support assessment, or a parent receiving child support under a child support assessment, 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.

Conclusion

This legislative instrument is compatible with human rights as it does not raise any human rights issues.

Christopher David Jordan AO
Commissioner of Taxation
04 June 2014
