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## Explanatory Statement

# Income Tax Assessment (Requirement for Parents Liable for or Entitled to Child Support to Lodge a Return for the 2024 Year) Instrument 2024

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### General outline of instrument

1. This legislative instrument is made under section 161 of the *Income Tax Assessment Act 1936* (ITAA 1936).
2. This instrument requires certain parents liable for or entitled to child support to lodge an income tax return for the income year by the due date specified in the instrument. A return must be lodged in the approved form.
3. This instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.
4. Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

### Date of effect

5. This instrument commences on the day after it is registered on the Federal Register of Legislation.

### Effect of this instrument

6. Section 5 of this instrument specifies that a parent liable for or entitled to child support is required to lodge an income tax return for the '2024 year', unless:
  - (a) the total of certain amounts (set out in paragraph 5(2)(a) of the instrument) they received during that income year was less than \$28,464, and
  - (b) they received one or more Australian Government pensions, allowances or payments (listed in paragraph 5(2)(b) of the instrument) for the whole of that income year.
7. For persons who do not have a 'substituted accounting period', the 2024 year is the year of income ended on 30 June 2024. For persons with a substituted accounting period – that is, a period they have been granted leave to adopt under section 18 of the ITAA 1936 instead of the year of income ended 30 June 2024 – the 2024 year is their substituted accounting period.
8. Section 6 of the instrument sets out the due date for lodging an income tax return. Persons who do not have a substituted accounting period must lodge by 31 October 2024. Persons with a substituted accounting period must lodge by the last day of the fourth month after the end of their substituted accounting period.

## **Compliance cost impact**

9. Minor – there will be no additional regulatory impacts as the instrument is minor and machinery in nature (The Office of Impact Assessment reference: OIA2407132).

## **Background**

10. Under the *Child Support (Assessment) Act 1989*, an assessment for child support relies on the adjusted taxable income of both parents. This requires both a parent liable for and a parent entitled to child support to lodge an income tax return.

11. The Commissioner makes a legislative instrument every year to require this class of persons – that is, parents liable for or entitled to child support – to lodge a return under section 161 of the ITAA 1936. Certain parents are exempt from this requirement (if their income is less than the income threshold, and they receive certain government pensions, allowances or payments for the whole year).

12. This legislative instrument obliges relevant persons to lodge an income tax return even if they are not required to lodge a return under the *Taxation Laws (Requirement to Lodge a Return for the 2024 Year) Instrument 2024*.

13. The format, structure and language of the instrument have been updated in 2024 to align with contemporary legislative drafting styles and make it easier to navigate. The update is not intended to change the general effect of the instrument. That is, the same class of persons that were required to lodge a return in previous income years are also required to lodge a return this year.

## **Consultation**

14. Subsection 17(1) of the *Legislation Act 2003* requires the Commissioner to be satisfied that any appropriate and reasonably practicable consultation has been undertaken before they make a legislative instrument.

15. Broad public consultation was undertaken from 12 March 2024 to 9 April 2024 for this instrument and explanatory statement.

16. The draft instrument and draft explanatory statement were published to the ATO Legal database and publicised on the database's 'What's new' page. They were also publicised on the ato.gov.au website on the 'Open Consultation' page. Major tax and superannuation publishers and associations commonly monitor these pages and usually include the details in the daily and weekly alerts and newsletters to their subscribers and members.

17. The legislative instrument and explanatory statement were updated as a result of feedback received during consultation. The changes include updates to clarify terminology, as well as the period which a person must be a parent liable for or entitled to child support to be required to lodge a return for the 2024 year.

## **Legislative references**

*Acts Interpretation Act 1901*

*Child Support (Assessment) Act 1989*

*Human Rights (Parliamentary Scrutiny) Act 2011*

*Income Tax Assessment Act 1936*

*Legislation Act 2003*

## **Statement of compatibility with human rights**

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

### **Income Tax Assessment (Requirement for Parents Liable for or Entitled to Child Support to Lodge a Return for the 2024 Year) Instrument 2024**

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 this legislative instrument**

This instrument specifies that certain parents liable for or entitled to child support are required to lodge an income tax return for the 2024 year (which, for many persons, is the income year ended 30 June 2024), even though they may not otherwise be required to lodge a return. Certain exemptions and conditions are identified in the instrument.

#### **Human rights implications**

This instrument does not engage any of the applicable rights or freedoms. It requires certain persons to lodge an income tax return, and specifies when this must be done, so that the Commonwealth can properly administer child support laws.

#### **Conclusion**

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