



Superannuation Industry (Supervision) Amendment Regulations 2006 (No. 1)¹

Select Legislative Instrument 2006 No. 189

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Superannuation Industry (Supervision) Act 1993*.

Dated 13 July 2006

P. M. JEFFERY
Governor-General

By His Excellency's Command

PETER DUTTON
Minister for Revenue and Assistant Treasurer

1 Name of Regulations

These Regulations are the *Superannuation Industry (Supervision) Amendment Regulations 2006 (No. 1)*.

2 Commencement

These Regulations commence on the day after they are registered.

3 Amendment of *Superannuation Industry (Supervision) Regulations 1994*

Schedule 1 amends the *Superannuation Industry (Supervision) Regulations 1994*.

Schedule 1 Amendments

(regulation 3)

[1] Regulation 6.40, definition of *maximum splittable amount*, paragraph (b)

omit

year.

insert

year; and

[2] Regulation 6.40, definition of *maximum splittable amount*, after paragraph (b)

insert

- (c) for untaxed splittable employer contributions — 100% of the amount of the untaxed splittable employer contributions made in the financial year.

[3] Regulation 6.40, after definition of *untaxed splittable contribution*

insert

untaxed splittable employer contribution has the meaning given by regulation 6.41.

[4] Regulation 6.41, heading

substitute

6.41 Meaning of *taxed splittable contribution*, *untaxed splittable contribution* and *untaxed splittable employer contribution*

[5] Paragraph 6.41 (1) (b)

omit

[6] After subregulation 6.41 (4)

insert

- (5) Subject to subregulation (6), an *untaxed splittable employer contribution* is a contribution by the Commonwealth, a State or a Territory to a public sector superannuation scheme that is not a taxable contribution for section 274 of the *Income Tax Assessment Act 1936*.
- (6) Each of the following is not an untaxed splittable employer contribution:
 - (a) an amount that has been rolled over, transferred or allotted;
 - (b) a lump sum payment from an eligible non-resident non-complying superannuation fund.

[7] Subregulation 6.42 (1)

omit

subregulation (2),

insert

subregulations (2) and (3),

[8] After subregulation 6.42 (2)

insert

- (3) A contribution by the Commonwealth, a State or a Territory to a public sector superannuation scheme in relation to a benefit that accrued in a financial year that commenced before 1 July 2005 is not a splittable contribution.

[9] Subregulation 6.44 (1)

after

made

insert

to that fund

[10] Paragraph 6.44 (1) (b)

omit

rolled over or transferred

insert

rolled over, transferred or cashed

[11] Subparagraph 6.44 (2) (a) (i)

omit

a

insert

the

[12] Paragraph 6.44 (2) (c)

substitute

- (c) subject to subregulation (3), if, at the time of application:
- (i) the member's spouse is aged 65 years or more; or
 - (ii) both:
 - (A) the member's spouse is aged between the relevant preservation age and 65 years; and
 - (B) the member's spouse satisfies the condition of release specified in item 101 of Schedule 1.

[13] Subregulation 6.44 (3)

substitute

- (3) Despite paragraph (2) (c), an application is not taken to be invalid under that paragraph if the application includes a statement by the member's spouse to the effect that, at the time of application, the spouse:
- (a) is aged less than the relevant preservation age; or
 - (b) both:
 - (i) is aged between the relevant preservation age and 65 years; and
 - (ii) does not satisfy the condition of release specified in item 101 of Schedule 1.

[14] After paragraph 6.44 (4) (b)

insert

- (c) the member's untaxed splittable employer contributions;

[15] Subregulations 6.45 (3) and (4)

substitute

- (3) If the application requests a split of untaxed splittable contributions, the trustee may give effect to the application only if the amount specified in the application is no more than the undeducted contributions that would form part of the ETP that would be payable if the member withdrew the member's entire benefits at the time of the trustee giving effect to the application.
- (4) If the application requests a split of taxed splittable contributions, the trustee may give effect to the application only if the amount specified in the application is no more than the taxed element of the post-June 83 component that would form part of the ETP that would be payable if the member withdrew the member's entire benefits at the time of the trustee giving effect to the application.
- (5) If the application requests a split of untaxed splittable employer contributions, the trustee may give effect to the application only if the amount specified in the application is no more than the untaxed element of the post-June 83 component that would form part of the ETP that would be payable if the member withdrew the member's entire benefits at the time of the trustee giving effect to the application.

Note

- 1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.frli.gov.au.