



Income Tax Assessment Amendment Regulations 2007 (No. 8)¹

Select Legislative Instrument 2007 No. 329

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 *Income Tax Assessment Act 1997*.

Dated 26 September 2007

P. M. JEFFERY
Governor-General

By His Excellency's Command

PETER CRAIG DUTTON
Minister for Revenue and Assistant Treasurer

1 Name of Regulations

These Regulations are the *Income Tax Assessment Amendment Regulations 2007 (No. 8)*.

2 Commencement

These Regulations commence on the day after they are registered.

3 Amendment of *Income Tax Assessment Regulations 1997*

Schedule 1 amends the *Income Tax Assessment Regulations 1997*.

Schedule 1 Amendment

(regulation 3)

[1] Before Subdivision 307-D

insert in Division 307

Subdivision 307-C Components of a superannuation benefit

307-125.01 Components of member benefits accruing before 1 July 1999 paid from the Military Superannuation and Benefits Scheme

- (1) For paragraph 307-125 (4) (a) of the Act, a member of the Military Superannuation and Benefits Scheme who is below preservation age may, subject to subregulation (2), determine the amount of the components of his or her member benefits accruing before 1 July 1999 paid from the Military Superannuation and Benefits Scheme in respect of the member.

- (2) For subregulation (1), the maximum amount that a member may determine as a component of his or her member benefits accruing before 1 July 1999, whether by a single choice or cumulatively, may not exceed:
- (a) for the tax free component of his or her member benefits accruing before 1 July 1999 — the amount worked out under section 307-210 of the Act for the interest; and
 - (b) for the taxable component of his or her member benefits accruing before 1 July 1999 — the amount worked out under section 307-215 of the Act for the interest.

Example

A member of the Military Superannuation and Benefits Scheme has an amount of his or her member benefits accruing before 1 July 1999 of \$1 000. Just before the benefit is paid, the value of the tax free component is \$800 and the taxable component is \$200. Before reaching preservation age, the member takes a lump sum benefit of \$900.

Under subregulation (1), the member is able to determine the amount of the benefit that will be the tax free component and the amount that will be the taxable component of the benefit. However, subregulation (2) prevents the member from treating more than \$800 of the superannuation benefit as tax free.

Note A preserved superannuation benefit paid in respect of a member of the Military Superannuation and Benefits Scheme is paid in accordance with subsection 307-125 (2) of the Act.

- (3) This regulation applies to a superannuation benefit paid from the Military Superannuation and Benefits Scheme on or after 1 July 2007.
- (4) In this regulation:
Military Superannuation and Benefits Scheme is the scheme that is established by clause 2 of the Military Superannuation and Benefits Trust Deed.

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.