



Income Tax Assessment Amendment (Transfer Balance Account Value for Certain Superannuation Income Streams) Regulations 2024

I, the Honourable Sam Mostyn AC, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 15 August 2024

Sam Mostyn AC
Governor-General

By Her Excellency's Command

Stephen Jones
Assistant Treasurer
Minister for Financial Services

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1 Name

This instrument is the *Income Tax Assessment Amendment (Transfer Balance Account Value for Certain Superannuation Income Streams) Regulations 2024*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	17 August 2024

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Income Tax Assessment Act 1997*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Income Tax Assessment (1997 Act) Regulations 2021

1 After section 294-80.02A

Insert:

294-80.02B Debit in transfer balance account—certain permanent incapacity pensions

- (1) For the purposes of item 8 of the table in subsection 294-80(1) of the Act, a transfer balance debit arises under this section in your transfer balance account if:
 - (a) a credit arose in your transfer balance account under item 1 or 2 of the table in subsection 294-25(1) of the Act in respect of a superannuation income stream; and
 - (b) the superannuation income stream was supported by a superannuation interest covered by subsection 294-135.01(6) of this instrument; and
 - (c) the superannuation income stream ceases; and
 - (d) the cessation does not give rise to a transfer balance debit in your transfer balance account (disregarding this subsection).
- (2) The amount of the debit is:
 - (a) the amount of the credit mentioned in paragraph (1)(a) of this section; less
 - (b) the amount of any transfer balance debits (apart from debits arising under item 4 of the table in subsection 294-80(1) of the Act) that have arisen in your transfer balance account in respect of the income stream before the time the debit arises.
- (3) The debit arises when the superannuation income stream ceases, as mentioned in paragraph (1)(c).

2 At the end of subsection 294-135.01(2)

Add “or (6)”.

3 At the end of section 294-135.01

Add:

- (6) This subsection covers a superannuation interest in a superannuation plan if:
 - (a) the superannuation interest supports an income stream that is, or was at any time, a superannuation income stream prescribed by section 294-130.01 to which subsection 294-130.01(7) applies; and
 - (b) a superannuation benefit was paid from the superannuation income stream to a person, whether before, at or after the time the *Income Tax Assessment Amendment (Transfer Balance Account Value for Certain Superannuation Income Streams) Regulations 2024* commenced (the **commencement time**); and

Note: The *Income Tax Assessment Amendment (Transfer Balance Account Value for Certain Superannuation Income Streams) Regulations 2024* inserted this subsection.

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- (c) the superannuation benefit was paid to the person because the person satisfied a condition of release specified in item 103 (permanent incapacity) of the table in Schedule 1 to the *Superannuation Industry (Supervision) Regulations 1994*; and
 - (d) the superannuation provider in relation to the superannuation plan had not given the Commissioner, before the commencement time, a statement under subsection 390-5(1) in Schedule 1 to the *Taxation Administration Act 1953* in relation to the superannuation interest indicating that a transfer balance credit arose in the person's transfer balance account because of the superannuation income stream.
- (7) For the purposes of subsection 294-135(4) of the Act, the **special value**, at a particular time, of a superannuation interest covered by subsection (6) of this section is the lesser of the following amounts:
- (a) the amount worked out in respect of that time under subsection 294-135(2) of the Act;
 - (b) if there is a particular period throughout which superannuation income stream benefits are payable under the income stream mentioned in paragraph (6)(a) of this section—the amount worked out in respect of that time under subsection 294-135(3) of the Act.
- (8) For the purposes of paragraphs (7)(a) and (b) of this section, treat:
- (a) the reference in subsection 294-135(2) of the Act to a capped defined benefit income stream covered by item 1 or 2 of the table in subsection 294-130(1) of the Act; and
 - (b) the reference in subsection 294-135(3) of the Act to a capped defined benefit income stream covered by any of items 3 to 7 of the table in subsection 294-130(1) of the Act;
- as instead being references to the income stream mentioned in paragraph (6)(a) of this section.
- (9) For the purposes of paragraph (7)(b) of this section, if:
- (a) superannuation income stream benefits are payable under the income stream mentioned in paragraph (6)(a) for a fixed term; but
 - (b) despite that fixed term, the superannuation income stream benefits may cease to be payable before the end of the fixed term in certain circumstances;
- treat the superannuation income stream benefits as being payable under the income stream throughout the fixed term.

4 In the appropriate position in Chapter 7

Insert:

Part 1000-6—Transitional matters relating to the Income Tax Assessment Amendment (Transfer Balance Account Value for Certain Superannuation Income Streams) Regulations 2024

1000-6.01 Definitions

In this Part:

2021 commencement time means the commencement time (within the meaning of Part 1000-1).

amending instrument means the *Income Tax Assessment Amendment (Transfer Balance Account Value for Certain Superannuation Income Streams) Regulations 2024*.

old regulations has the same meaning as in Part 1000-1.

1000-6.02 Application of amendments

- (1) Section 294-80.02B, as inserted by the amending instrument, applies in relation to a superannuation income stream that ceases, as mentioned in paragraph (1)(c) of that section, on or after the 2021 commencement time.
- (2) The amendments made by the amending instrument to section 294-135.01 of this instrument apply in relation to working out the special value, at a particular time, of a superannuation interest if the particular time is on or after the 2021 commencement time.

1000-6.03 Modified continuing application of old regulations

- (1) This section applies for the purposes of the continuing application of the old regulations in relation to a superannuation income stream that:
 - (a) commenced before the 2021 commencement time; and
 - (b) is supported by a superannuation interest covered by subsection 294-135.01(6) of this instrument.
- (2) This section applies despite subsection 1000-1.06(1).
- (3) For the purposes mentioned in subsection (1), treat the special value of the superannuation interest at a time (the *relevant time*) that is before the 2021 commencement time as being the special value of the superannuation interest at the relevant time worked out under section 294-135.01, as amended by the amending instrument.
- (4) To avoid doubt, for the purposes of subsection (3), assume that section 294-135.01, as amended by the amending instrument:
 - (a) applies in relation to a transfer balance credit that arises before the 2021 commencement time (despite subsection 1000-1.06(6)); and
 - (b) applies in relation to working out the special value, at a particular time, of a superannuation interest even if the particular time is before the 2021 commencement time (despite section 1000-6.02).

- (5) For the purposes mentioned in subsection (1), if the superannuation income stream mentioned in that subsection ceased before the 2021 commencement time, treat section 294-80.02B of this instrument as applying in relation to that cessation.