

SPR 2009/2 - Explanatory statement -



Unclaimed Money Days and Scheduled Statement Days

Explanatory Statement

General outline of Instrument:

The Instrument sets out the unclaimed money days and corresponding scheduled statement days which apply to superannuation providers who are required to give to the Commissioner a statement in relation to, and payment of, unclaimed money under Part 3 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*.

Superannuation providers determine all unclaimed money they have as at the end of each unclaimed money day for the purposes of Part 3 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*.

The scheduled statement days set the due dates by which superannuation providers must lodge statements required under section 16 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*.

The scheduled statement days also set the due dates for payment, as required, to the Commissioner in accordance with section 17 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*.

This Instrument does not apply to unclaimed money payable in relation to a person identified in a section 20C notice given by the Commissioner to a superannuation provider in accordance with Part 3A (former temporary residents) of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*.

The 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.

Date of effect:

The Instrument is effective from the day after it is registered.

What this Instrument is about:

Superannuation providers are required to identify all unclaimed money held by them by the end of each unclaimed money day.

Generally an amount is taken to be unclaimed money if:

- the member has reached the eligibility age which is generally 65 year of age; and
- the superannuation provider has not received an amount in respect of the member for at least 2 years; and
- it has been at least 5 years since the superannuation provider last had contact with the member and the provider has been unable to contact the member again after making reasonable efforts,

Or

- a payment split applies to a splittable payment in respect of a member's interest; and
- the non-member spouse (or his or her legal representative if he or she has died) is entitled to be paid an amount; and

- after making reasonable efforts and after a reasonable period has passed, the superannuation provider is unable to ensure that amount will be received by the non-member spouse (or his or her legal representative if applicable)

Or

- the member has died; and
- a benefit is immediately payable in respect of the member; and
- the provider has not received an amount in respect of the member for at least 2 years; and
- after making reasonable efforts and after a reasonable time has passed, the provider is unable to ensure that the benefit will be received by the person entitled to it.

If a superannuation provider holds unclaimed money on an unclaimed money day, then the superannuation provider is required to give the Commissioner a statement in the approved form by the corresponding scheduled statement day or such later time determined by the Commissioner in accordance with section 388-55 in Schedule 1 of the *Taxation Administration Act 1953*.

If a superannuation provider does not have any unclaimed money at the end of the unclaimed money day and the fund is a regulated superannuation fund of 5 members or more, then the superannuation provider is still required to lodge a statement, in the approved form, by the corresponding scheduled statement day or such later time determined by the Commissioner in accordance with section 388-55 in Schedule 1 of the *Taxation Administration Act 1953*.

Where a superannuation provider is required to pay to the Commissioner unclaimed money as identified on an unclaimed money day, in accordance with section 17, it is due and payable at the end of the corresponding scheduled statement day or a later time determined by the Commissioner in accordance with section 255-10 in Schedule 1 of the *Taxation Administration Act 1953*.

An unclaimed money day must be a day that occurs on or after 1 July 2009.

The Legislative Instrument determines the unclaimed money days shall be 31 December and 30 June. It further determines that for the unclaimed money day 31 December, the scheduled statement day will be 30 April of the following year and for the unclaimed money day 30 June, the scheduled statement day will be the following 31 October.

These dates have been specified to allow funds to continue reporting, and paying, unclaimed money in the same timeframe as required by the *Superannuation (Unclaimed Money and Lost Members) Act 1999* prior to amendments made by *Tax Laws Amendment (2009 Measures No. 1) Act 2009*. That Act amended the *Superannuation (Unclaimed Money and Lost Members) Act 1999* to allow the Commissioner to set the lodgment and payment dates by legislative instrument. As Tax Office and superannuation industry practices are improved, it is expected that greater flexibility and efficiency can be achieved by aligning these dates with some of the other payment and reporting obligations of superannuation providers. However, there will be no change to existing practices until such efficiencies are negotiated between the Tax Office and the superannuation providers.

This Legislative Instrument will apply from registration and onwards until the Commissioner issues a replacement Instrument determining the unclaimed money days and the scheduled statement days.

The effect of this Instrument:

The Instrument sets the unclaimed money days on which a superannuation provider must determine whether they have unclaimed money. The instrument also sets the corresponding scheduled statement days, which is the date by which the superannuation provider must lodge statements as required, and pay unclaimed money as calculated, to the Commissioner.

Compliance cost impact:

An assessment of the compliance cost impact indicates that the impact will be no change for implementation and no change in on-going compliance costs. The instrument is routine in nature.

Background:

The amended section 15A of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* takes effect from 1 July 2009.

The Instrument sets out the unclaimed money days and the scheduled statement days which determine the days that unclaimed money needs to be determined, the due date for lodgment of statements and due date for payments to the Commissioner.

Consultation:

As the effect of this Instrument is to confirm the dates previously used to determine and report unclaimed money and does not change or impact on the longstanding practice of superannuation providers, consultation was not undertaken.

Tim Dyce
Deputy Commissioner of Taxation
16/10/2009
