

SPR 2018/1 - Explanatory statement -



Explanatory Statement

Taxation Administration Member Account Attribute Service – the Reporting of Information Relating to Superannuation Account Phases and Attributes 2018

General outline of instrument

1. This instrument is made under section 390-5 and section 390-20 of Schedule 1 to the *Taxation Administration Act 1953* (TAA 1953).
2. This instrument sets out the way in which superannuation providers in relation to superannuation plans (excluding self managed superannuation funds), and life insurance companies, are required to give a statement to the Commissioner of Taxation (the Commissioner) in relation to an individual's superannuation account phases and attributes.
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.

Repeal of previous instrument

5. This instrument repeals and replaces Instrument F2017L00142 *Reporting of all new member accounts and closed member accounts by superannuation providers in relation to superannuation plans (other than self managed superannuation funds) in accordance with the Taxation Administration Act 1953*, registered on 22 February 2017.

Date of effect

6. This instrument will commence on the day after it is registered on the Federal Register of Legislation and will apply from 1 April 2018.

What is this instrument about

7. The principal purpose of the instrument is to set out the timeframe for the giving of a statement to the Commissioner under section 390-5 and section 390-20 of Schedule 1 to the TAA 1953 in relation to an individual's superannuation account phases and attributes. The Member Account Attribute Service (MAAS) form is the approved form for the giving of such a statement to the Commissioner.

8. The instrument establishes when such a statement is to be lodged, being no later than 5 business days after the day on which:

- an account is opened or a life insurance policy is first held, and
- any changes to the account phases and/or attributes relating to the account or policy occur

unless the time for lodging the approved form is deferred by the Commissioner under section 388-55 of Schedule 1 to the TAA 1953.

9. This enables the Commissioner to allow a later date for the lodgment of the statement in respect of some superannuation account phases and attributes, while still requiring lodgment in respect of other account phases and attributes within five business days.

What is the effect of this instrument

10. The effect of this instrument is that superannuation providers in relation to superannuation plans (excluding self managed superannuation funds), and life insurance companies, are required to report an individual's superannuation account phases and/or attributes to the Commissioner by lodging a statement in the approved form by the time specified in the instrument. As the MAAS form is the approved form for the giving of the statement, penalties may be imposed for failure to lodge on time in the approved form.

11. Superannuation account phases and attributes include but are not limited to, opening and closing of accounts, defined benefit interest indicator and acceptance of contributions and government rollovers. Reporting of superannuation account attributes and phases to the Commissioner in the MAAS form commences from 1 April 2018.

12. Following consultation with industry, the Commissioner intends to provide an administrative concession to support the transition to MAAS reporting. There will be a transitional period from 1 April 2018 until 31 October 2018 allowing for the first lodgment of the MAAS form to be no later than 5 business days from the 31 October 2018, unless the time for lodging the approved form is deferred by the Commissioner.

13. This instrument does not change the reporting requirements detailed in the separate legislative Instrument F2017L01273 *Reporting of event based transfer balance account information in accordance with the Taxation Administration Act 1953*, registered on 27 September 2017.

14. This instrument does not alter the reporting obligations for the financial year ending the 30 June 2018 and prior financial years as detailed in the separate legislative instrument F2014L00691 *Lodgment of statements by superannuation providers in relation to superannuation plans (other than self managed superannuation funds) for each financial year ended 30 June in accordance with the Taxation Administration Act 1953*, registered on 10 June 2014..

Compliance cost impact

15. Compliance cost impact: Minor – there will be no or minimal impacts for both implementation and ongoing compliance costs. The legislative instrument is minor or machinery in nature.

Background

16. Under Legislative instrument F2017L00142 *Reporting of all new member accounts and closed member accounts by superannuation providers in relation to superannuation plans (other than self managed superannuation funds) in accordance with the Taxation Administration Act 1953*, superannuation providers are currently required to report new member accounts and closed member accounts via SuperTICK. This instrument replaces those requirements.

Consultation

17. This instrument was developed in consultation with key industry stakeholders. The ATO undertook consultation on the timing and overall framework of MAAS reporting including ongoing workshops with industry from July 2015.
18. Further documents were published on the ATO's software developer's website in the form of the MAAS Business Implementation Guide and MAAS technical documents.
19. The ATO considered all issues in preparing the final legislative instrument. The majority of consultation feedback sought clarification about the relevant timeframes in specific circumstances and the ATO has provided clarification on these points.

Legislative references:

Taxation Administration Act 1953

Income Tax Assessment Act 1997

Legislation Act 2003

Human Rights (Parliamentary Scrutiny) Act 2011

Acts Interpretation Act 1901

F2014L00691- "Lodgment of statements by superannuation providers in relation to superannuation plans (other than self managed superannuation funds) for each financial year ended 30 June in accordance with the Taxation Administration Act 1953
F2017L01273 Reporting of event based transfer balance account information in accordance with the Taxation Administration Act 1953

Statement of Compatibility with Human Rights

This Statement is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Taxation Administration Member Account Attribute Service – the Reporting of Information Relating to Superannuation Account Phases and Attributes 2018

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

The principal purpose of the instrument is to set out the way in which superannuation providers in relation to superannuation plans (excluding self managed superannuation funds) and life insurance companies are required to lodge statements in relation to superannuation account phases and attributes.

Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms as it simply provides guidance for superannuation providers on their obligations to lodge statements and the date by which they must be lodged.

Conclusion

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