

EXPOSURE DRAFT

2008-2009

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

EXPOSURE DRAFT

Superannuation Legislation Amendment (Lost Members' Superannuation Accounts) Bill 2009

No. , 2009

(Treasury)

**A Bill for an Act to amend the law relating to
superannuation, and for related purposes**

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1 **A Bill for an Act to amend the law relating to**
2 **superannuation, and for related purposes**

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act may be cited as the *Superannuation Legislation*
6 *Amendment (Lost Members' Superannuation Accounts) Act 2009*.

7 **2 Commencement**

8 This Act commences on the day this Act receives the Royal
9 Assent.

10 **3 Schedule(s)**

11 Each Act that is specified in a Schedule to this Act is amended or
12 repealed as set out in the applicable items in the Schedule

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1 concerned, and any other item in a Schedule to this Act has effect
2 according to its terms.

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Lost members of superannuation funds **Schedule 1**
Amendment of the Superannuation (Unclaimed Money and Lost Members) Act 1999
Part 1

1
2 **Schedule 1—Lost members of superannuation**
3 **funds**

4 **Part 1—Amendment of the Superannuation**
5 **(Unclaimed Money and Lost Members) Act**
6 **1999**

7 **1 Paragraph 6(a)**

8 Repeal the paragraph, substitute:

9 (a) the keeping of registers of details relating to:

10 (i) unclaimed money; and

11 (ii) certain amounts relating to superannuation of persons
12 (*former temporary residents*) who used to be holders of
13 temporary visas under the *Migration Act 1958* and have
14 left Australia; and

15 (iii) certain amounts relating to superannuation of persons
16 who used to be lost members;

17 so that the money and amounts can be claimed by persons
18 entitled to them; and

19 **2 Paragraph 6(ca)**

20 Repeal the paragraph.

21 **3 Paragraphs 6(e) and (ea)**

22 Repeal the paragraphs, substitute:

23 (e) the payment to the Commissioner of:

24 (i) unclaimed money; and

25 (ii) certain amounts relating to superannuation of former
26 temporary residents; and

27 (iii) certain amounts relating to superannuation of lost
28 members; and

29 (ea) the safekeeping of such money and amounts paid to the
30 Commissioner until the Commissioner can pay the money
31 and amounts to persons entitled to them; and

32 **4 Section 7**

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Schedule 1 Lost members of superannuation funds

Part 1 Amendment of the Superannuation (Unclaimed Money and Lost Members) Act 1999

1

Omit:

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Superannuation providers must pay to the Commissioner of Taxation any unclaimed money they hold. If the Commissioner is satisfied he or she has received such a payment in respect of a person, the Commissioner must pay the amount he or she has received to the person, to a fund identified by the person or, if the person has died, to the person's death beneficiaries or legal personal representative.

9

Substitute:

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11

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13

Superannuation providers must pay to the Commissioner of Taxation any unclaimed money they hold. Later, the Commissioner must, if satisfied that it is possible to do so, pay the amount he or she has received in respect of a person to:

14

(a) the person; or

15

(b) to a fund identified by the person; or

16

(c) if the person has died—to the person's death beneficiaries or legal personal representative.

17

18 **5 At the end of section 7**

19

Add:

20

Superannuation of lost members

21

At the times determined by the Commissioner, superannuation providers must give the Commissioner of Taxation details relating to:

24

(a) small accounts of lost members; and

25

(b) inactive accounts of unidentifiable lost members.

26

Superannuation providers must pay to the Commissioner of Taxation the value of any such accounts. Later, the Commissioner must, if satisfied that it is possible to do so, pay an amount he or she has received in respect of a person:

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- (a) to a fund identified by the person; or
- (b) if the person has reached eligibility age or the amount is less than \$200—to the person; or
- (c) if the person has died—to the person’s death beneficiaries or legal personal representative.

6 Section 8

Insert:

account, in a fund, has a meaning affected by subsection 24B(3).

7 Section 8

Insert:

lost member account has the meaning given by section 24B.

8 Section 8

Insert:

non-member spouse has the same meaning as in Part VIIIIB of the *Family Law Act 1975*.

9 Section 8

Insert:

payment split means a payment split under Part VIIIIB of the *Family Law Act 1975*.

10 Section 8 (paragraph (a) of the definition of *scheduled statement day*)

After “Part 3”, insert “or 4A”.

11 Section 8

Insert:

splittable payment has the same meaning as in Part VIIIIB of the *Family Law Act 1975*.

12 Paragraph 12(1)(c)

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Schedule 1 Lost members of superannuation funds

Part 1 Amendment of the Superannuation (Unclaimed Money and Lost Members) Act 1999

1 Omit “for at least 2 years”, substitute “within the last 2 years”.

2 **13 Subsections 12(3) and 13(1B)**

3 Repeal the subsections.

4 **14 Paragraph 14(c)**

5 Omit “for at least 2 years”, substitute “within the last 2 years”.

6 **15 Paragraph 15A(a)**

7 After “this Part”, insert “and Part 4A”.

8 **16 Paragraph 15A(b)**

9 After “this Part”, insert “or Part 4A”.

10 **17 At the end of subsection 19(1)**

11 Add:

12 ; and (e) amounts paid to the Commissioner under section 24E (lost
13 member accounts); and

14 (f) each person in respect of whom there is an amount referred to
15 in paragraph (e) of this subsection.

16 **18 At the end of subparagraph 20H(1)(b)(ii)**

17 Add “and”.

18 **19 After subparagraph 20H(1)(b)(ii)**

19 Insert:

20 (iia) the amounts (if any) paid to the Commissioner under
21 section 24E in respect of the person;

22 **20 At the end of paragraph 20H(1)(b)**

23 Add:

24 ; and (vi) the amounts (if any) paid by the Commissioner under
25 section 24G in respect of the person.

26 **21 Paragraph 20H(2B)(a)**

27 After “section 17”, insert “, 24E or 24G”.

28 **22 Subsection 20H(3)**

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Lost members of superannuation funds **Schedule 1**
Amendment of the Superannuation (Unclaimed Money and Lost Members) Act 1999
Part 1

1 Omit “and (ii)”, substitute “, (ii) and (ia)”.

2 **23 Part 4 (heading)**

3 Repeal the heading, substitute:

4 **Part 4—Information about lost members**

5 **24 After Part 4**

6 Insert:

7 **Part 4A—Payment of lost member accounts to the**
8 **Commissioner**

9 **Division 1—Preliminary**

10 **24A Object of Part**

11 The object of this Part is to set out a procedure for dealing with:

- 12 (a) small accounts of lost members; and
13 (b) accounts of unidentifiable lost members.

14 **24B Meaning of *lost member account***

15 *Small accounts*

16 (1) An account in a fund is taken to be a ***lost member account*** if:

- 17 (a) the member on whose behalf the account is held is a lost
18 member; and
19 (b) the balance of the account is less than \$200; and
20 (c) the account does not support or relate to a defined benefit
21 interest (within the meaning of section 292-175 of the *Income*
22 *Tax Assessment Act 1997*).

23 Note: The balance of an account does not reflect any earnings, fees or
24 charges that have not yet been credited to, or debited from, the
25 account.

26 *Inactive accounts of unidentifiable members*

27 (2) An account in a fund is also taken to be a ***lost member account*** if:

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Schedule 1 Lost members of superannuation funds

Part 1 Amendment of the Superannuation (Unclaimed Money and Lost Members) Act 1999

- 1 (a) the member on whose behalf the account is held is a lost
2 member; and
3 (b) the superannuation provider has not received an amount in
4 respect of the member within the last 5 years; and
5 (c) the superannuation provider is satisfied that it will not be
6 possible for the provider, having regard to the information
7 reasonably available to the provider, to pay an amount to the
8 member at any time in the future; and
9 (d) the account does not support or relate to a defined benefit
10 interest (within the meaning of section 292-175 of the *Income*
11 *Tax Assessment Act 1997*).

12 RSAs

- 13 (3) A reference to an **account** in a fund that is an RSA is a reference
14 to:
15 (a) if the RSA is an account—that account; or
16 (b) if the RSA is a policy (within the meaning of the RSA Act)—
17 that policy.

18 Division 2—Statement of lost member accounts

19 24C Statement of lost member accounts

20 *Superannuation provider must give statement to Commissioner*

- 21 (1) A superannuation provider must, for each unclaimed money day,
22 give the Commissioner a statement, in the approved form, of
23 information relevant to either or both of the following:
24 (a) each lost member account as at the end of the day;
25 (b) the administration of any of the following in connection with
26 each lost member account:
27 (i) this Part;
28 (ii) the *Superannuation (Departing Australia*
29 *Superannuation Payments Tax) Act 2007*;
30 (iii) the *Income Tax Assessment Act 1997*, Part 3AA of this
31 Act, and Chapters 2 and 4 in Schedule 1 to the *Taxation*
32 *Administration Act 1953*, so far as they relate to this
33 Part or the *Superannuation (Departing Australia*
34 *Superannuation Payments Tax) Act 2007*.

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Lost members of superannuation funds **Schedule 1**
Amendment of the Superannuation (Unclaimed Money and Lost Members) Act 1999
Part 1

-
- 1 Note 1: For State or Territory public sector superannuation schemes, see
2 section 24H.
- 3 Note 2: The *Taxation Administration Act 1953* provides for offences and
4 administrative penalties if the statement required under subsection (1)
5 includes false or misleading information: see sections 8K, 8M, 8N and
6 8R of that Act and Division 284 in Schedule 1 to that Act.
- 7 Note 3: The approved form may also require the statement to include certain
8 tax file numbers: see subsection 25(4) of this Act.
- 9 (2) If, at the end of the unclaimed money day, there are no lost
10 member accounts, the statement must say so.
- 11 Note: If the fund is a regulated superannuation fund that has fewer than 5
12 members, see subsection (4).
- 13 (3) The statement must also contain information, required by the
14 approved form, relevant to any of the following in relation to the
15 period that starts on the unclaimed money day and ends on the day
16 on which the statement is given to the Commissioner:
- 17 (a) any change in the balance of a lost member account during
18 the period;
- 19 (b) an account that, during the period, ceases to be a lost member
20 account because the member ceases to be a lost member.
- 21 Example: Change in the balance of the account due to:
- 22 (a) the superannuation provider paying an amount to a person who is
23 entitled to it; or
24 (b) earnings being credited to the account; or
25 (c) fees or other charges being debited from the account.
- 26 (4) This section does not apply if, at the end of the unclaimed money
27 day:
- 28 (a) the fund is a regulated superannuation fund that has fewer
29 than 5 members; and
30 (b) there are no lost member accounts.
- 31 *When statement must be given*
- 32 (5) The superannuation provider must give the Commissioner the
33 statement by the end of the scheduled statement day for the
34 unclaimed money day.
- 35 Note 1: The Commissioner may defer the time for giving the statement: see
36 section 388-55 in Schedule 1 to the *Taxation Administration Act 1953*.
- 37 Note 2: The *Taxation Administration Act 1953* provides for offences and
38 administrative penalties if the statement is not given when it must be:
-

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Schedule 1 Lost members of superannuation funds

Part 1 Amendment of the Superannuation (Unclaimed Money and Lost Members) Act 1999

1 see sections 8C and 8E of that Act and Division 286 in Schedule 1 to
2 that Act.

3 *Relationship to rest of Act*

- 4 (6) This section does not apply in relation to:
5 (a) unclaimed money; or
6 (b) amounts payable to a person identified in a notice the
7 Commissioner has given the superannuation provider under
8 section 20C.

9 Note: Section 16 requires the superannuation provider to give the
10 Commissioner a statement about unclaimed money.

11 Note 2: Section 20E requires the superannuation provider to give the
12 Commissioner a statement about the superannuation interest of a
13 person identified in a notice given to the provider under section 20C
14 (which is about notices identifying former temporary residents).

15 **24D Error or omission in statement**

16 *Scope*

- 17 (1) This section applies if:
18 (a) a superannuation provider gives the Commissioner a
19 statement under section 24C; and
20 (b) the superannuation provider becomes aware of a material
21 error, or material omission, in any information in the
22 statement.

23 *Superannuation provider must give information*

- 24 (2) The superannuation provider must, in the approved form, give the
25 Commissioner the corrected or omitted information.
26 (3) Information required by subsection (2) must be given no later than
27 30 days after the superannuation provider becomes aware of the
28 error or omission.

29 Note 1: The Commissioner may defer the time for giving the information: see
30 section 388-55 in Schedule 1 to the *Taxation Administration Act 1953*.

31 Note 2: The *Taxation Administration Act 1953* provides for offences and
32 administrative penalties if the information is not given when it must
33 be: see sections 8C and 8E of that Act and Division 286 in Schedule 1
34 to that Act.

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1 **Division 3—Payment in respect of lost member accounts**

2 **24E Payment in respect of lost member accounts**

3 *Provider must pay Commissioner*

4 (1) A superannuation provider must pay the Commissioner (for the
5 Commonwealth) the amount worked out under subsection (2) in
6 respect of a person if:

- 7 (a) an account is a lost member account as at the end of an
8 unclaimed money day; and
9 (b) the account is held by the provider on behalf of the person;
10 and
11 (c) the person is still a lost member at the time (the *calculation*
12 *time*) immediately before the earlier of:
13 (i) the time (if any) the payment is made; and
14 (ii) the time at which the payment is due and payable,
15 (assuming that the payment must be made).

16 The amount is due and payable at the end of the scheduled
17 statement day for the unclaimed money day.

18 Note 1: For State or Territory public sector superannuation schemes, see
19 section 24H.

20 Note 2: Subsection 24F(2) makes it an offence not to comply with a
21 requirement under this subsection.

22 Note 3: The amount the superannuation provider must pay the Commissioner
23 is a tax-related liability for the purposes of the *Taxation*
24 *Administration Act 1953*. Division 255 in Schedule 1 to that Act deals
25 with payment and recovery of tax-related liabilities. Division 284 in
26 that Schedule provides for administrative penalties connected with
27 such liabilities.

28 Note 4: The Commissioner may defer the time at which the amount is due and
29 payable: see section 255-10 in Schedule 1 to the *Taxation*
30 *Administration Act 1953*.

31 Note 5: Section 24J provides for refunds of overpayments by the
32 superannuation provider to the Commissioner.

33 *Amount of payment*

34 (2) The amount payable in respect of the lost member is the amount
35 that would have been payable by the superannuation provider if the
36 lost member had requested that the balance of the account be rolled

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Schedule 1 Lost members of superannuation funds

Part 1 Amendment of the Superannuation (Unclaimed Money and Lost Members) Act 1999

1 over or transferred to a complying superannuation fund (within the
2 meaning of the SIS Act).

3 (3) For the purposes of subsection (2):

- 4 (a) work out the amount that would have been payable at the
5 calculation time; and
6 (b) assume that the request were made before the calculation
7 time; and
8 (c) assume that the lost member had not died before the
9 calculation time.

10 *Family Law payment splits*

11 (4) If, as a result of a payment split that applies in relation to the
12 account, the non-member spouse (or his or her legal personal
13 representative if he or she has died) is, or could in the future be,
14 entitled to be paid an amount, then:

- 15 (a) for the purposes of subsection (2), take account only of the
16 lost member's entitlement to payment remaining after any
17 reduction by the payment split (disregarding subsection
18 90MB(3) of the *Family Law Act 1975*); and
19 (b) the superannuation provider must also pay an amount (the
20 ***non-member spouse amount***) to the Commissioner in respect
21 of the non-member spouse; and
22 (c) the non-member spouse amount is due and payable at the
23 same time as the amount payable under subsection (1); and
24 (d) the amount of the non-member spouse amount is the amount
25 of the reduction mentioned in paragraph (a).

26 Note 1: Part VIII B of the *Family Law Act 1975* is about splitting amounts
27 payable in respect of a superannuation interest between the parties to a
28 marriage. Subsection 90MB(3) of that Act provides that the Part has
29 effect subject to this Act.

30 Note 2: Subsection 24F(2) makes it an offence not to comply with a
31 requirement under this subsection.

32 *Miscellaneous*

33 (5) This section does not require the superannuation provider to pay
34 the Commissioner:

- 35 (a) unclaimed money; or
36 (b) an amount payable to a person identified in a notice the
37 Commissioner has given the provider under section 20C.
-

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Lost members of superannuation funds **Schedule 1**
Amendment of the Superannuation (Unclaimed Money and Lost Members) Act 1999

Part 1

1 Note 1: Unclaimed money is payable to the Commissioner under section 17.

2 Note 2: An amount mentioned in paragraph (5)(b) is payable to the
3 Commissioner under section 20F.

4 (6) Upon payment to the Commissioner of an amount as required
5 under this section, the superannuation provider is discharged from
6 further liability in respect of that amount.

7 (7) For the purposes of this section, ignore accounts with nil balances,
8 or balances below nil, as at the calculation time mentioned in
9 subsection (1).

10 **24F Payment in respect of lost member accounts—late payments**

11 *General interest charge on late payment*

12 (1) If any of the amount a superannuation provider must pay under
13 section 24E remains unpaid after it is due and payable, the
14 superannuation provider is liable to pay general interest charge on
15 the unpaid amount for each day in the period that:

- 16 (a) starts at the time it is due and payable; and
17 (b) ends at the end of the last day on which either of the
18 following remains unpaid:
19 (i) the amount unpaid when it is due and payable;
20 (ii) general interest charge on any of the amount.

21 *Offence of failing to make payment to Commissioner*

- 22 (2) A person commits an offence if:
23 (a) the person is subject to a requirement under subsection
24 24E(1) or (4); and
25 (b) the person engages in conduct; and
26 (c) the person's conduct breaches the requirement.

27 Penalty for an offence against subsection (2): 100 penalty units.

28 **24G Payment by Commissioner in respect of person for whom an** 29 **amount has been paid to Commissioner**

- 30 (1) This section applies in relation to a person if:

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Schedule 1 Lost members of superannuation funds

Part 1 Amendment of the Superannuation (Unclaimed Money and Lost Members) Act 1999

-
- 1 (a) a superannuation provider paid an amount to the
2 Commissioner under section 24E in respect of the person;
3 and
4 (b) the Commissioner is satisfied, on application in the approved
5 form or on the Commissioner's own initiative, that it is
6 possible for the Commissioner to pay the amount in
7 accordance with subsection (2).
- 8 (2) The Commissioner must pay the amount:
- 9 (a) to a single fund if:
- 10 (i) the person has not died; and
11 (ii) the person directs the Commissioner to pay to the fund;
12 and
13 (iii) the fund is a complying superannuation plan (within the
14 meaning of the *Income Tax Assessment Act 1997*); or
- 15 (b) in accordance with subsection (3) if:
- 16 (i) the person has died; and
17 (ii) the Commissioner is satisfied that, if the superannuation
18 provider had not paid the amount to the Commissioner,
19 the provider would have been required to pay an amount
20 or amounts (death benefits) to one or more other
21 persons (death beneficiaries) because of the deceased
22 person's death; or
- 23 (c) to the person's legal personal representative if the person has
24 died but subparagraph (b)(ii) does not apply; or
- 25 (d) to the person if:
- 26 (i) subparagraph (a)(ii) does not apply; and
27 (ii) the person has reached the eligibility age or the amount
28 is less than \$200; and
29 (iii) the person has not died.

30 Note: Money for payments under subsection (2) is appropriated by
31 section 16 of the *Taxation Administration Act 1953*.

- 32 (3) In a case covered by paragraph (2)(b), the Commissioner must pay
33 the amount under subsection (2) by paying to each death
34 beneficiary the amount worked out using the following formula:

35

$$\text{Amount payable under subsection (2)} \times \frac{\text{Death benefit for the death beneficiary}}{\text{Total death benefits}}$$

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1 Note: If there is only one death beneficiary, the whole of the amount is
2 payable to that beneficiary.

3 (4) This section does not apply to an amount that is to be, is or has
4 been, taken into account in determining whether the Commissioner
5 must make a payment under section 20H.

6 Note: Section 20H provides for payment by the Commissioner of amounts
7 equal to amounts paid to the Commissioner under subsections 17(1),
8 20F(1) and 24E(1) in respect of a person who:
9 (a) is identified in a notice under section 20C; or
10 (b) used to be the holder of a temporary visa.

11 **Division 4—Various rules for special cases**

12 **24H Payment in respect of lost member accounts—State or** 13 **Territory public sector superannuation schemes**

14 Sections 24C, 24E and 24F do not apply to a superannuation
15 provider in relation to an unclaimed money day if, because of
16 section 18, the superannuation provider does not have to comply
17 with subsection 16(1) or 17(1) in relation to the unclaimed money
18 day.

19 **24J Refund of overpayment made by superannuation provider**

- 20 (1) This section applies if:
- 21 (a) a superannuation provider for a fund (the *first fund*) has
22 made a payment to the Commissioner under section 24E in
23 respect of a person; and
 - 24 (b) the Commissioner is satisfied that the amount paid exceeded
25 the amount (if any) that was payable under that section in
26 respect of the person.
- 27 (2) The Commissioner must pay the excess:
- 28 (a) to the superannuation provider; or
 - 29 (b) to a superannuation provider for another fund if the
30 Commissioner is satisfied that:
 - 31 (i) the first fund no longer exists; and
 - 32 (ii) the other fund provides rights relating to the person
33 equivalent to those provided by the first fund.

34 Note: Money for payments under subsection (2) is appropriated by
35 section 16 of the *Taxation Administration Act 1953*.

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Part 1 Amendment of the Superannuation (Unclaimed Money and Lost Members) Act 1999

24K Commissioner may recover overpayment

- 1
- 2 (1) This section applies if:
- 3 (a) the Commissioner makes a payment in respect of a person
- 4 under, or purportedly under, this Part; and
- 5 (b) the amount paid exceeds the amount (if any) properly
- 6 payable under this Part in respect of the person.
- 7 (2) The Commissioner may recover all or part of the excess from a
- 8 person (the *debtor*) described in subsection (3) as a debt due by the
- 9 debtor to the Commonwealth if the conditions specified in
- 10 subsection (4) are met.
- 11 (3) The persons from whom the Commissioner may recover are as
- 12 follows:
- 13 (a) the person to whom the payment was made (whether the
- 14 payment was made to the person in his or her own right or as
- 15 the legal personal representative of someone else who had
- 16 died);
- 17 (b) the superannuation provider for the fund to which the
- 18 payment was made;
- 19 (c) if the payment, or an amount wholly or partly attributable to
- 20 that payment, was transferred to another fund—the
- 21 superannuation provider for that other fund.
- 22 (4) The conditions for recovery are that:
- 23 (a) the Commissioner gave the debtor written notice, as
- 24 prescribed by the regulations, of the proposed recovery and
- 25 the amount to be recovered; and
- 26 (b) at least 28 days have passed since the notice was given; and
- 27 (c) the amount recovered is not more than the amount specified
- 28 in the notice.
- 29 (5) Despite subsections (2) and (3), if the Commissioner gives a notice
- 30 described in paragraph (4)(a) to a superannuation provider for a
- 31 fund, and the fund does not hold an amount attributable to the
- 32 payment, the Commissioner cannot recover from the
- 33 superannuation provider.
- 34 (6) The Commissioner may revoke a notice described in
- 35 paragraph (4)(a).

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Lost members of superannuation funds **Schedule 1**
Amendment of the Superannuation (Unclaimed Money and Lost Members) Act 1999

Part 1

1 (7) The total of the amounts recovered from different debtors in
2 relation to the same excess must not be more than the excess.

3 (8) A notice described in paragraph (4)(a) is not a legislative
4 instrument.

5 **24L Superannuation provider to return payment from** 6 **Commissioner that cannot be credited**

7 *Scope*

8 (1) This section applies if:

9 (a) a payment (the *Commissioner's payment*) is made to a fund
10 under section 24G in accordance with a person's direction;
11 and

12 (b) the superannuation provider for the fund has not credited the
13 payment to an account for the benefit of the person by the
14 time (the *repayment time*) that is the end of the 28th day after
15 the day on which the Commissioner's payment was made.

16 *Repayment*

17 (2) The superannuation provider is liable to repay the Commissioner's
18 payment to the Commonwealth. The repayment is due and payable
19 at the repayment time.

20 Note: The amount the superannuation provider is liable to repay is a
21 tax-related liability for the purposes of the *Taxation Administration*
22 *Act 1953*. Division 255 in Schedule 1 to that Act deals with payment
23 and recovery of tax-related liabilities.

24 (3) The superannuation provider must give the Commissioner, in the
25 approved form, information relating to the Commissioner's
26 payment when repaying it.

27 Note: The *Taxation Administration Act 1953* provides for offences and
28 administrative penalties if the form is not given when it must be or
29 includes false or misleading information: see sections 8C, 8K and 8N
30 of that Act and Divisions 284 and 286 in Schedule 1 to that Act.

31 *General interest charge*

32 (4) If any of the amount the superannuation provider is liable to repay
33 under subsection (2) remains unpaid by the superannuation
34 provider after the repayment time, the superannuation provider is

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- 1 liable to pay general interest charge on the unpaid amount for each
2 day in the period that:
- 3 (a) starts at the repayment time; and
 - 4 (b) ends at the end of the last day on which either of the
5 following remains unpaid:
 - 6 (i) the amount unpaid at the repayment time;
 - 7 (ii) general interest charge on any of the amount.

8 **25 At the end of section 25**

9 Add:

10 *Lost member accounts statements*

- 11 (4) The approved form of statement by a superannuation provider for
12 the purposes of section 24C may require the statement to contain
13 the tax file number of:
- 14 (a) the superannuation provider; and
 - 15 (b) the fund; and
 - 16 (c) a member of the fund if:
 - 17 (i) the statement relates to an account, in the fund, held on
18 behalf of the member; and
 - 19 (ii) the member has quoted his or her tax file number to the
20 superannuation provider.

21 **26 Paragraph 29(1)(aa)**

22 After “subsection 20H(1)”, insert “or 24G(1)”.

EXPOSURE DRAFT

Lost members of superannuation funds **Schedule 1**
Other amendments **Part 2**

1

2 **Part 2—Other amendments**

3 ***Financial Transaction Reports Act 1988***

4 **27 Paragraph 18(4B)(ca)**

5 Omit “Part 3 or 3A”, substitute “Part 3, 3A or 4A”.

6 ***Income Tax Assessment Act 1997***

7 **28 Section 301-125**

8 After “section 20H”, insert “or 24G”.

9 **29 Section 301-225**

10 Before “Despite”, insert “(1)”.

11 **30 At the end of section 301-225**

12 Add:

- 13 (2) Despite anything else in this Division (apart from
14 Subdivision 301-D), a *superannuation member benefit that you
15 receive is not assessable income and is not *exempt income if:
16 (a) the benefit is a *superannuation lump sum; and
17 (b) the benefit is paid to you under subsection 24G(2) of the
18 *Superannuation (Unclaimed Money and Lost Members) Act*
19 *1999* in a case covered by paragraph (d) of that subsection;
20 and
21 (c) the amount of the benefit is less than \$200.

22 **31 Subsection 307-5(1) (cell at table item 5, column 2)**

23 After “section 20H”, insert “, 24E or 24G”.

24 **32 Subsection 307-5(1) (cell at table item 5, column 3)**

25 Omit “or 20H”, substitute “, 20H or 24G”.

26 **33 Paragraph 307-120(2)(e)**

27 After “section 20H”, insert “or 24G”.

EXPOSURE DRAFT

Schedule 1 Lost members of superannuation funds

Part 2 Other amendments

1 **34 Subsection 307-142(1)**

2 After “section 20H”, insert “or 24G”.

3 **35 Subsection 307-142(2) (method statement, at the end of**
4 **the note to step 1)**

5 Add:

6 A payment made under section 24G of that Act is
7 attributable to a single unclaimed amount set out in
8 item 4 of the table.

9 **36 Subsection 307-142(3) (at the end of the table)**

10 Add:

4 an amount paid to the a *superannuation the *tax free
Commissioner under benefit paid from a component of that
section 24E of the *superannuation superannuation
Superannuation (Unclaimed plan benefit
Money and Lost Members) Act
1999 in respect of the person

11 **37 Subsection 307-300(1)**

12 After “section 20H”, insert “or 24G”.

13 **38 Subsection 307-300(2) (method statement, at the end of**
14 **the note to step 1)**

15 Add:

16 A payment made under section 24G of that Act is
17 attributable to a single unclaimed amount set out in
18 item 4 of the table.

19 **39 Subsection 307-300(3) (at the end of the table)**

20 Add:

4 an amount paid to the a *superannuation the *element taxed
Commissioner under benefit paid from a in the fund of the
section 24E of the *superannuation *taxable component
Superannuation (Unclaimed plan of that
Money and Lost Members) Act superannuation
1999 in respect of the person benefit

EXPOSURE DRAFT

Lost members of superannuation funds **Schedule 1**
Other amendments **Part 2**

1 **40 Subsection 307-350(2B)**

2 Omit “section 20H”, substitute “sections 20H and 24G”.

3 ***Taxation Administration Act 1953***

4 **41 Subsection 8AAB(5) (after table item 13C)**

5 Insert:

13D	24F	<i>Superannuation (Unclaimed Money and Lost Members) Act 1999</i>
13E	24L	<i>Superannuation (Unclaimed Money and Lost Members) Act 1999</i>

6 **42 Subsection 250-10(2) in Schedule 1 (table items 68 and 69)**

7 Omit “section”.

8 **43 Subsection 250-10(2) in Schedule 1 (after table item 69)**

69A	payment of value of lost member accounts to the Commissioner	24E	<i>Superannuation (Unclaimed Money and Lost Members) Act 1999</i>
69B	payment from Commissioner that cannot be credited	24L	<i>Superannuation (Unclaimed Money and Lost Members) Act 1999</i>

EXPOSURE DRAFT

Schedule 1 Lost members of superannuation funds

Part 3 Application and saving provisions

1

2

Part 3—Application and saving provisions

3

44 Application

4

The amendments made by this Schedule apply in relation to:

5

(a) the last unclaimed money day (within the meaning of the
Superannuation (Unclaimed Money and Lost Members) Act
1999) occurring before 1 July 2010; and

6

7

8

(b) later unclaimed money days.

9

45 Saving—regulations

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If, just before the commencement of this item, regulations made for the purposes of paragraph 18B(4)(a) of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* were in force, the regulations have effect, from that commencement, as if they had also been made for the purposes of paragraph 24K(4)(a) of that Act, as inserted by this Schedule.

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