

EXPOSURE DRAFT

1 Inserts for
2 **Superannuation Legislation Amendment**
3 **Bill 2010: TPD insurance premiums**
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Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 4	The day this Act receives the Royal Assent.	
2. Schedule 1, Part 1	A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	
3. Schedule 1, Part 2, Division 1	At the same time as the provision(s) covered by table item 2.	
4. Schedule 1, Part 2, Division 2	1 January 2017.	1 January 2017

6 **4 Amendment of assessments**

7 Section 170 of the *Income Tax Assessment Act 1936* does not
8 prevent the amendment of an assessment if:

- 9 (a) the assessment was made before the commencement of Part 1
10 of Schedule 1 to this Act; and
11 (b) the amendment is made within 2 years after that
12 commencement; and
13 (c) the amendment is made for the purpose of giving effect to
14 that Part.

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Schedule 1—Disability insurance premiums paid by superannuation funds

Part 1—2004-05 to 2006-07 income years

1 Complying funds—deductions for insurance premiums for disability benefits

Scope

(1) This item applies if:

(a) the trustee of a complying superannuation fund pays a premium for an insurance policy during:

(i) the 2004-05 income year; or

(ii) the 2005-06 income year; or

(iii) the 2006-07 income year; and

(b) the policy is (wholly or partly) for current or contingent liabilities of the fund to provide benefits for members of the fund (whether the policy covers the whole or parts of the liabilities).

Note: For premiums paid during the 2007-08 to 2010-11 income years, see section 295-466 of the *Income Tax (Transitional Provisions) Act 1997*.

Entitlement to deduction

(2) Treat the benefits mentioned in paragraph (1)(b) as being ***death or disability benefits***, in relation to the members mentioned in that paragraph, to the extent that:

(a) the benefits are conditional on the disability of the members; and

(b) the disability is described as a permanent disability in regulations made for the purposes of section 295-466 of the *Income Tax (Transitional Provisions) Act 1997*.

Note: Other events might have to occur after the event of the disability of the members before the fund pays the benefits to the members. For example, the members might have to satisfy a condition of release of benefits specified in a standard made under paragraph 31(2)(h) of the *Superannuation Industry (Supervision) Act 1993*, such as by reaching a certain age.

(3) Subitem (2) applies:

(a) for the purposes of applying former subsection 279(1) of the *Income Tax Assessment Act 1936* to the payment mentioned in paragraph (1)(a) of this item; and

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(b) without limiting that former subsection.

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1 Part 2—2007-08 to 2010-11 income years

2 Division 1—Main amendments

3 *Income Tax Assessment Act 1997*

4 **2 At the end of paragraph 295-460(b)**

5 Add:

6 Note: *Disability superannuation benefit* has an extended meaning for
7 the 2007-08 to 2010-11 income years for the purposes of
8 subsection 295-465(1): see section 295-466 of the *Income Tax*
9 *(Transitional Provisions) Act 1997*.

10 **3 Subsection 295-465(1) (table item 5)**

11 After “provide”, insert “certain benefits, if those benefits are”.

12 *Income Tax (Transitional Provisions) Act 1997*

13 **4 Section 295-465 (heading)**

14 Repeal the heading, substitute:

15 **295-465 Complying funds—deductions for insurance premiums**

16 **5 After section 295-465**

17 Insert:

18 **295-466 Complying funds—deductions for insurance premiums for** 19 **disability superannuation benefits**

20 *Scope*

21 (1) This section applies if:

- 22 (a) a complying superannuation fund pays a premium for an
23 insurance policy during:
24 (i) the 2007-08 income year; or
25 (ii) the 2008-09 income year; or
26 (iii) the 2009-10 income year; or
27 (iv) the 2010-11 income year; and
28 (b) the policy is (wholly or partly) for current or contingent
29 liabilities of the fund to provide superannuation benefits for

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1 members of the fund (whether the policy covers the whole or
2 parts of the liabilities).

3 Note: For premiums paid during the 2004-05 to 2006-07 income years, see
4 Part 1 of Schedule 1 to the *Superannuation Legislation Amendment*
5 *Act 2010*.

6 *Entitlement to deduction*

7 (2) Treat the superannuation benefits mentioned in paragraph (1)(b) as
8 being ***disability superannuation benefits***, to the extent that:

- 9 (a) the superannuation benefits are conditional on the disability
10 of the members mentioned in that paragraph; and
11 (b) the disability is described as a permanent disability in
12 regulations made for the purposes of this section.

13 Note: Other events might have to occur after the event of the disability of the
14 members before the fund pays the benefits to the members. For
15 example, the members might have to satisfy a condition of release of
16 benefits specified in a standard made under paragraph 31(2)(h) of the
17 *Superannuation Industry (Supervision) Act 1993*, such as by reaching
18 a certain age.

19 (3) Subsection (2) applies:

- 20 (a) for the purposes of applying:
21 (i) subsection 295-465(1) of the *Income Tax Assessment*
22 *Act 1997*; and
23 (ii) paragraph 295-460(b) of that Act, to the extent that it
24 relates to subsection 295-465(1) of that Act;
25 to the payment mentioned in paragraph (1)(a) of this section;
26 and
27 (b) without limiting subsection 295-465(1) and paragraph
28 295-460(b) of that Act.

29 *Amendment of assessments*

30 (4) Section 170 of the *Income Tax Assessment Act 1936* does not
31 prevent the amendment of an assessment if:

- 32 (a) the assessment was made before the commencement of this
33 section; and
34 (b) the amendment is made within 2 years after that
35 commencement; and
36 (c) the amendment is made for the purpose of giving effect to
37 this section.

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1 **Division 2—Sunsetting on 1 January 2017**

2 *Income Tax Assessment Act 1997*

3 **6 Paragraph 295-460(b) (note)**

4 Repeal the note.

5 *Income Tax (Transitional Provisions) Act 1997*

6 **7 Section 295-466**

7 Repeal the section.