



Income Tax Amendment Regulations 2005 (No.)¹

Select Legislative Instrument 2005 No.

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Income Tax Assessment Act 1936*.

Dated 2005

Governor-General

By His Excellency's Command

[DRAFT ONLY – NOT FOR SIGNATURE]

Minister for Revenue and Assistant Treasurer

DRAFT ONLY

1 Name of Regulations

These Regulations are the *Income Tax Amendment Regulations 2005 (No.)*.

2 Commencement

These Regulations commence on the day after they are registered.

3 Amendment of *Income Tax Regulations 1936*

Schedule 1 amends the *Income Tax Regulations 1936*.

Schedule 1 Amendment

(regulation 3)

[1] After regulation 8

insert

8A Interdependency relationships (Act s 27AAB)

- (1) For paragraph 27AAB (3) (a) of the Act, the following matters are to be taken into account in determining whether 2 persons have an interdependency relationship:
- (a) all of the circumstances of the relationship between the persons, including:
- (i) the duration of the relationship; and
 - (ii) whether or not a sexual relationship exists; and
 - (iii) the ownership, use and acquisition of property; and
 - (iv) the degree of mutual commitment to a shared life; and
 - (v) the care and support of children; and
 - (vi) the reputation and public aspects of the relationship; and

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- (vii) the degree of emotional support; and
 - (viii) the extent to which the relationship is one of mere convenience; and
 - (ix) any evidence suggesting that the parties intend the relationship to be permanent;
- (b) the existence of a statutory declaration signed by one of the persons to the effect that the person is, or (in the case of a statutory declaration made after the end of the relationship) was, in an interdependency relationship with the other person.
- (2) For paragraph 27AAB (3) (b) of the Act, 2 persons have an interdependency relationship if:
- (a) they satisfy the requirements of paragraphs 27AAB (1) (a) to (c) of the Act; and
 - (b) one or each of them provides the other with support and care of a type and quality normally provided in a close personal relationship, rather than by a mere friend or flatmate.

Examples of care normally provided in a close personal relationship rather than by a friend or flatmate

1. Significant care provided for the other person when he or she is unwell.
2. Significant care provided for the other person when he or she is suffering emotionally.

- (3) For paragraph 27AAB (3) (b) of the Act, 2 persons have an interdependency relationship if:
- (a) they have a close personal relationship; and
 - (b) they do not satisfy the other requirements set out in subsection 27AAB (1) of the Act; and
 - (c) the reason they do not satisfy the other requirements is that:
 - (i) they are temporarily living apart; or
 - (ii) either of them suffers, or both of them suffer, from a permanent incapacity within the meaning given by regulation 6.01 of the *Superannuation Industry (Supervision) Regulations 1994*.

Example for subparagraph (3) (c) (i)

One of the persons is temporarily working overseas or is in gaol.

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- (4) For paragraph 27AAB (3) (b) of the Act, 2 persons do not have an interdependency relationship if 1 of them provides domestic support and personal care to the other:
- (a) under an employment contract or a contract for services;
or
 - (b) on behalf of another person or organisation such as a government agency, a body corporate or a benevolent or charitable organisation.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.frli.gov.au.