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| **EXPOSURE DRAFT** |

Inserts for

Treasury Laws Amendment (Measures for Consultation) Regulations 2021: Miscellaneous and Technical Amendments Autumn 2022

| Commencement information |
| --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| Schedule 1 | The day after this instrument is registered. |  |

Schedule 1—Amendments

Income Tax Assessment (1997 Act) Regulations 2021

1 At the end of Subdivision 294-B

Add:

294-25.02 Credit in transfer balance account—commutation of certain capped defined benefit income streams

 (1) For the purposes of item 5 of the table in subsection 294-25(1) of the Act, a transfer balance credit arises under this section in your transfer balance account if:

 (a) you receive a superannuation lump sum because a capped defined benefit income stream (the ***commuted stream***) covered by any of items 1 to 7 of the table in subsection 294-130(1) of the Act is commuted, in full or in part, on or after 1 July 2017; and

 (b) the superannuation lump sum is transferred directly to the purchase of a superannuation income stream (the ***commenced stream***) that is covered by an item of the following table and is in the retirement phase.

| Covered superannuation income stream |
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| Item | Topic | A superannuation income stream is covered if: |
| 1 | Life expectancy pension | it is a pension for the purposes of the SIS Act that is provided under rules that meet the standards of subregulation 1.06(7) of the SIS Regulations |
| 2 | Life expectancy annuity | it is an annuity for the purposes of the SIS Act that is provided under a contract that meets the standards of subregulation 1.05(9) of the SIS Regulations |
| 3 | Market linked pension | it is a pension for the purposes of the SIS Act that is provided under rules that meet the standards of subregulation 1.06(8) of the SIS Regulations |
| 4 | Market linked annuity | it is an annuity for the purposes of the SIS Act that is provided under a contract that meets the standards of subregulation 1.05(10) of the SIS Regulations |
| 5 | Market linked pension (RSA) | it is a pension for the purposes of the RSA Act that is provided under terms and conditions that meet the standards of subregulation 1.07(3A) of the RSA Regulations |

 (2) The amount of the credit is the value worked out under item 2 of the table in subsection 294-25(1) of the Act for the commenced stream as if that item applied to the commenced stream.

 (3) The credit arises immediately after the transfer balance debit arises in relation to the commutation under subsection 294-80.02A(3) of this instrument.

 (4) For the purposes of subsection 294-25(3) of the Act, item 2 of the table in subsection 294-25(1) of the Act does not apply to superannuation income streams to which paragraph (1)(b) of this section applies.

2 After section 294-80.02

Insert:

294-80.02A Debit in transfer balance account—commutation of certain capped defined benefit income streams

 (1) For the purposes of item 8 of the table in subsection 294-80(1) of the Act, a transfer balance debit arises under this section in your transfer balance account if:

 (a) you receive a superannuation lump sum because a capped defined benefit income stream (the ***commuted stream***) covered by any of items 1 to 7 of the table in subsection 294-130(1) of the Act is commuted, in full or in part, on or after 1 July 2017; and

 (b) the superannuation lump sum is transferred directly to the purchase of a superannuation income stream (the ***commenced stream***) that is covered by an item of the table in subsection 294-80.02(1) of this instrument and is in the retirement phase.

 (2) The amount of the debit is the amount worked out under item 1 of the table in subsection 294-80(1) of the Act (as it applies to a capped defined benefit income stream under section 294-145 of the Act) for the commuted stream as if that item applied to the commuted stream.

 (3) The debit arises at the later of:

 (a) immediately after the commencement of Schedule 1 to the *Treasury Laws Amendment (Measures for Consultation) Regulations 2021*; and

 (b) immediately after the commutation occurs.

 (4) For the purposes of subsection 294-80(3) of the Act, item 1 of the table in subsection 294-80(1) of the Act does not apply to capped defined benefit income streams to which subsection (1) of this section applies.

Retirement Savings Accounts Regulations 1997

3 Subparagraph 1.07(3A)(e)(viii)

Omit “and”, substitute “or”.

4 At the end of paragraph 1.07(3A)(e)

Add:

 (ix) in order to comply with section 136-80 in Schedule 1 to the *Taxation Administration Act 1953*; and

5 At the end of paragraph 1.08(2)(b)

Add:

 (iv) to comply with section 136-80 in Schedule 1 to the *Taxation Administration Act 1953*; or

Superannuation Industry (Supervision) Regulations 1994

6 Subparagraph 1.05(9)(e)(ii)

Omit “and”, substitute “or”.

7 At the end of paragraph 1.05(9)(e)

Add:

 (iii) to allow commutation in order to comply with section 136-80 in Schedule 1 to the *Taxation Administration Act 1953*; and

8 Subparagraph 1.05(9)(h)(ix)

Omit “and”.

9 At the end of paragraph 1.05(9)(h)

Add:

 (x) in order to comply with section 136-80 in Schedule 1 to the *Taxation Administration Act 1953*; and

10 Subparagraph 1.05(10)(d)(viii)

Omit “and”.

11 At the end of paragraph 1.05(10)(d)

Add:

 (ix) in order to comply with section 136-80 in Schedule 1 to the *Taxation Administration Act 1953*; and

12 Subparagraph 1.06(7)(e)(ii)

Omit “and”, substitute “or”.

13 At the end of paragraph 1.06(7)(e)

Add:

 (iii) to allow commutation in order to comply with section 136-80 in Schedule 1 to the *Taxation Administration Act 1953*; and

14 Subparagraph 1.06(7)(g)(ix)

Omit “and”.

15 At the end of paragraph 1.06(7)(g)

Add:

 (x) in order to comply with section 136-80 in Schedule 1 to the *Taxation Administration Act 1953*; and

16 Subparagraph 1.06(8)(d)(viii)

Omit “and”.

17 At the end of paragraph 1.06(8)(d)

Add:

 (ix) in order to comply with section 136-80 in Schedule 1 to the *Taxation Administration Act 1953*; and

18 After subparagraph 1.07B(3)(b)(iii)

Insert:

 (iv) to comply with section 136-80 in Schedule 1 to the *Taxation Administration Act 1953*; or

19 After subparagraph 1.07C(2)(b)(iii)

Insert:

 (iv) to comply with section 136-80 in Schedule 1 to the *Taxation Administration Act 1953*; or

20 At the end of subregulation 1.08(2)

Add:

 ; or (d) is for conversion in relation to a commutation in order to comply with section 136-80 in Schedule 1 to the *Taxation Administration Act 1953*.