



Income Tax Amendment Regulations 2003 (No.)¹

Statutory Rules 2003 No. ²

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 2003

Governor-General

By His Excellency's Command

[DRAFT ONLY – NOT FOR SIGNATURE]

Treasurer

DRAFT ONLY

1 Name of Regulations

These Regulations are the *Income Tax Amendment Regulations 2003* (No.).

2 Commencement

These Regulations commence on 1 July 2004.

Instructor	Unless you instruct us otherwise, OLD will gazette regulations 5 working days after an Executive Council meeting. We will table them soon after, usually on the next sitting day after gazettal. Requests for earlier gazettal or urgent tabling must be received by the OLD Publication Officer at least 4 working days before the Executive Council meeting.
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3 Amendment of *Income Tax Regulations 1936*

Schedule 1 amends the *Income Tax Regulations 1936*.

Schedule 1 Amendment

(regulation 3)

[1] After regulation 98

insert

98A Spouse contributions-splitting amounts (Act s 27A)

An amount that is rolled over, transferred or allotted under Division 6.7 of the *Superannuation Industry (Supervision) Regulations 1994* or Division 4.6 of the *Retirement Savings Accounts Regulations 1997* is a spouse contributions-splitting amount for the purpose of the definition of ***contributions-splitting ETP*** in subsection 27A (1) of the Act.

98B Election taken to have been made in relation to a qualifying ETP that is a contributions-splitting ETP (Act s 27D)

- (1) For paragraph 27D (8) (a) of the Act, an election under subsection 27D (1) of the Act is taken to have been made by a taxpayer in relation to a qualifying ETP that is a contributions-splitting ETP if an amount is rolled over, transferred or allotted under Division 6.7 of the *Superannuation Industry (Supervision) Regulations* or Division 4.6 of the *Retirement Savings Accounts Regulations 1997*.
- (2) For paragraph 27D (8) (b) of the Act, the taxpayer is taken to have specified the following matters in an election taken to have been made under subregulation (1):
 - (a) that the ETP consists only of the taxed element of a post-June 83 component, the untaxed element of a post-June 83 component and undeducted contributions;
 - (b) that the sum of the amounts of the taxed element of the post-June 83 component and the untaxed element of the post-June 83 component does not exceed 70% of the taxpayer's deductible contributions (within the meaning of Division 6.7 of the *Superannuation Industry (Supervision) Regulations 1994* or Division 4.6 of the *Retirement Savings Accounts Regulations 1997*) made in the previous financial year;
 - (c) that the amount of the undeducted contributions is an amount that does not exceed 100% of the taxpayer's undeducted contributions (within the meaning of Division 6.7 of the *Superannuation Industry (Supervision) Regulations 1994* or Division 4.6 of the *Retirement Savings Accounts Regulations 1997*) made in the previous financial year.
- (3) For paragraph 27D (8) (c) of the Act, for the purpose of applying section 27D of the Act to an election taken to have been made under subregulation (1), the taxpayer mentioned in section 27D of the Act is the **sending spouse** (within the meaning of the *Superannuation Industry (Supervision) Regulations 1994* or the *Retirement Savings Accounts Regulations 1997*).

**98C Information about contribution-splitting ETPs
(Act s 27HA)**

For subsection 27HA (1) of the Act, the matters are:

- (a) the member's name, membership number and tax file number (if known); and
- (b) the name of the member's spouse; and
- (c) the total amounts of deductible contributions and undeducted contributions (within the meaning of Division 6.7 of the *Superannuation Industry (Supervision) Regulations 1994* or Division 4.6 of the *Retirement Savings Accounts Regulations 1997*) made in the previous financial year; and
- (d) the amounts of deductible contributions and undeducted contributions that were rolled over, transferred or allotted; and
- (e) the name and ABN of the fund to which the split contributions were rolled over, transferred or allotted.

Notes

- 1. These Regulations amend Statutory Rules ^year^ No. , as amended by ^year^ No. .
- 2. Notified in the *Commonwealth of Australia Gazette* on 2003.