

SECTION 295-385 Income from assets set aside to meet current pension liabilities

295-385(1) The *ordinary income and *statutory income of a *complying superannuation fund for an income year is exempt from income tax to the extent that:

- (a) it would otherwise be assessable income; and
- (b) it is from *segregated current pension assets.

Exception

295-385(2) Subsection (1) does not apply to:

- (a) *non-arm's length income; or
- (b) amounts included in assessable income under Subdivision [295-C](#).

Meaning of *segregated current pension assets*

295-385(3) Assets of a *complying superannuation fund are *segregated current pension assets* at a time if:

- (a) the assets are invested, held in reserve or otherwise dealt with at that time solely to enable the fund to discharge all or part of its liabilities (contingent or not) in respect of *superannuation income stream benefits that are payable by the fund at that time; and
- (b) the trustee of the fund obtains an *actuary's certificate before the date for lodgment of the fund's *income tax return for the income year to the effect that the assets and the earnings that the actuary expects will be made from them would provide the amount required to discharge in full those liabilities, or that part of those liabilities, as they fall due.

295-385(4) Assets of a *complying superannuation fund are also *segregated current pension assets* of the fund at a time if the assets are invested, held in reserve or otherwise being dealt with at that time for the sole purpose of enabling the fund to discharge all or part of its liabilities (contingent or not), as they become due, in respect of *superannuation income stream benefits:

- (a) that are payable by the fund at that time; and
- (b) prescribed by the regulations for the purposes of this section.

295-385(5) Subsection (4) does not apply unless, at all times during the income year, the liabilities of the fund (contingent or not) to pay *superannuation income stream benefits payable by the fund were liabilities in respect of superannuation income stream benefits that are prescribed by the regulations for the purposes of this section.

295-385(6) However, assets of a *complying superannuation fund that are supporting a *superannuation income stream benefit that is prescribed by the regulations for the

purposes of this section are not *segregated current pension assets* to the extent that the *market value of the assets exceeds the account balance supporting the benefit.

SECTION 295-390 Income from other assets used to meet current pension liabilities

295-390(1) A proportion of the *ordinary income and *statutory income of a *complying superannuation fund that would otherwise be assessable income is exempt from income tax under this section. The proportion is worked out under subsection (3).

Exception

295-390(2) Subsection (1) does not apply to:

- (a) *non-arm's length income; or
- (b) amounts included in assessable income under Subdivision [295-C](#); or
- (c) income *derived from *segregated non-current assets; or
- (d) income that is exempt from income tax under section [295-385](#).

Formula

295-390(3) The proportion is:

Average value of current pension liabilities	
Average value of superannuation liabilities	

where:

average value of current pension liabilities is the average value for the income year of the fund's current liabilities (contingent or not) in respect of *superannuation income stream benefits that are payable by the fund in that year. This does not include liabilities for which *segregated current pension assets are held.

average value of superannuation liabilities is the average value for the income year of the fund's current and future liabilities (contingent or not) in respect of *superannuation benefits in respect of which contributions have, or were liable to have, been made. This does not include liabilities for which *segregated current pension assets or *segregated non-current assets are held.

Actuary's certificate

295-390(4) The value of particular liabilities of the fund at a particular time is the amount of the fund's assets, together with future contributions in respect of the benefits concerned and expected earnings on the assets and contributions after that time, that would provide the amount required to discharge those liabilities as they fall

due. This must be specified in an *actuary's certificate obtained by the trustee of the fund before the date for lodgment of the fund's income tax return for the income year.

295-390(5) The expected earnings are worked out at the rate the actuary expects will be the rate of the fund's earnings on its assets (except *segregated current pension assets or *segregated non-current assets).

Superannuation liabilities where no current certificate

295-390(6) The superannuation liabilities do not have to be valued by an actuary for the income year if the fund has no *segregated current pension assets or *segregated non-current assets for the income year. Instead, the value can be worked out using this formula:

Last value of superannuation liabilities	×	Current value of assets	
Last value of assets			

where:

current value of assets is the value of all of the fund's assets at a time in the income year, as specified in an *actuary's certificate obtained by the trustee of the fund before the date for lodgment of the fund's *income tax return for the income year.

last value of assets is the most recent value of all of the fund's assets specified in an *actuary's certificate.

last value of superannuation liabilities is the value, at the time of that most recent valuation, of the fund's superannuation liabilities specified in an *actuary's certificate.

Note: This allows a fund to avoid the expense of an actuarial valuation of its superannuation liabilities, except in those years that a valuation is required by the SIS Act in order for the fund to continue to be complying.

295-390(7) Subsections (4), (5) and (6) do not apply in working out the amounts to be used in the formula in subsection (3) if, at all times during the income year, the liabilities of the fund in respect of *superannuation income stream benefits payable at those times were liabilities in respect of superannuation income stream benefits that are prescribed by the regulations for the purposes of this subsection.

SECTION 295-395 Meaning of *segregated non-current assets*

295-395(1) Assets of a *complying superannuation fund are ***segregated non-current assets*** at a time in an income year if:

- (a) the assets are invested, held in reserve or otherwise dealt with at that time solely to enable the fund to discharge all or part of its current and future liabilities (contingent or not) to pay benefits in respect of which contributions have, or were liable to have, been made; and

(b) the trustee of the fund obtains an *actuary's certificate before the date for lodgment of the fund's *income tax return for the income year to the effect that the amount of the assets, together with any future contributions, and the earnings that the actuary expects will be made from them will provide the amount required to discharge in full those liabilities, or that part of those liabilities, as they fall due.

295-395(2) The liabilities referred to in paragraph (1)(a) do not include liabilities (contingent or not) in respect of *superannuation income stream benefits payable by the fund at that time.