Legislative Instrument

PAYG Withholding variation for foreign resident capital gains withholding payments – marriage or relationship breakdowns

I, Matthew Bambrick, Acting Deputy Commissioner of Taxation, make this variation under subsection 14-235(5) of Schedule 1 to the *Taxation Administration Act 1953*.

Acting Deputy Commissioner of Taxation

Dated: 5 October 2016

1. **Name of instrument**

This determination is the *PAYG Withholding variation for foreign resident capital gains withholding payments – marriage or relationship breakdowns*.

1. **Commencement**

This instrument commences on the day after its registration on the Federal Register of Legislative Instruments

1. **Application**

This instrument applies to payments covered by section 14-200 of Schedule 1 to the *Taxation Administration Act 1953*, where

1. under the *Family Law Act 1975* or under a State law, Territory law or foreign law relating to breakdowns of relationships between spouses, the transferee acquires ownership of an asset; and.
2. the transferee possesses a copy of the relevant documentation specified in subsection 126-5(1) of the ITAA 1997 by the time of the finalisation of the transfer, showing that the asset was acquired in accordance with subparagraph 3(i).
3. **Determination**

The amount to be paid to the Commissioner in relation to transactions covered by this instrument is varied to nil.

1. **Definitions**
* Spouse - as defined within subsection 995-1(1) of the Income Tax Assessment Act 1997
* Transferor – the person or entity named in the relevant documentation specified in subsection 126-5(1) of the ITAA 1997, under which the *Family Law Act 1975*, State law, Territory law or foreign law relating to breakdowns of relationships between spouses, is requiring them to transferor an asset to another individual (transferee).
* Transferee – the individual who is named in the relevant documentation specified in subsection 126-5(1) of the ITAA 1997 as being in receipt of the ownership of the asset transferred under the *Family Law Act 1975* or under a State law, Territory law or foreign law relating to breakdowns of relationships between spouses.

Other terms used in this legislative instrument have the same meaning as defined in the:

**** *Income Tax Assessment Act 1997,* *or*

**** *Taxation Administration Act 1953*