Legislative Instrument

PAYG Withholding variation for foreign resident capital gains withholding payments –income tax exempt entities

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

Deputy Commissioner of Taxation

Dated: 9 March 2017

1. **Name of instrument**

This determination is the *PAYG Withholding variation for foreign resident capital gains withholding payments – income tax exempt entities*.

1. **Commencement**

This instrument commences on the day after its registration on the Federal Register of Legislation.

1. **Application**

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

1. evidence of a private binding ruling issued by the Australian Taxation Office confirming that the entity is income tax exempt that is valid for the year in which the transaction is occurring; or
2. documentation showing that the entity is endorsed for income tax exemption as a registered charity under item 1.1 of section 50-5 of the *Income Tax Assessment Act 1997*.
3. **Determination**

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

1. **Definitions**
* Income tax exempt entity – exempt entity is defined under subsection 995-1(1) of the *Income Tax Assessment Act 1997* (ITAA 1997) which means an entity all of whose \*ordinary income and \*statutory income is exempt from income tax because of this Act or because of another \*Commonwealth law, no matter what kind of ordinary income or statutory income the entity might have; or an \*untaxable Commonwealth entity.

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*