



Explanatory Statement

TAXATION ADMINISTRATION ACT WITHHOLDING SCHEDULES 2017

General Outline of Instrument

1. This instrument is made under section 15-25 of Schedule 1 to the *Taxation Administration Act 1953* (TAA).
2. The instrument makes the withholding schedules, specifying the amount, formulas and procedures to be used for working out the amount required to be withheld by an entity under the pay as you go (PAYG) system.
3. The instrument contains thirteen withholding schedules. Each schedule provides information for calculating the withholding amount, taking into account the particular circumstances presented in the schedule.
4. This instrument repeals and replaces legislative instruments:
 - a. Taxation Administration Act Withholding Schedules 2016 – F2016L01035, registered on 16 June 2016, and
 - b. Taxation Administration Act Withholding Schedules Correction October 2016 – F2016L01506, registered on 27 September 2016
5. Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.
6. This is a legislative instrument for the purposes of the *Legislation Act 2003*.

Date of effect

7. The instrument commences on 1 July 2017.

What is this instrument about

8. These schedules set out the amounts, formulas and procedures to be used for calculating the amount required to be withheld by entities from withholding payments. The withholding schedules facilitate the collection of income tax, Medicare levy, Higher Education Loan Program, Student Start-up Loans, Trade Support Loans and Financial Supplement repayments.
9. These withholding schedules are being updated in response to the termination of the temporary budget repair levy, indexation of the Medicare levy thresholds and annual indexation of loan repayment thresholds which occur under existing legislation. These updates are needed in order for payers to work out the amount they must withhold from payments made to individual taxpayers.

10. The purpose of this instrument is to provide certainty to payers about withholding correct amounts of tax on behalf of their payees, which then assists payees to meet their annual income tax liability. Payers are required to withhold and pay amounts of income earned by payees, at regular intervals, as it is earned during the year. The system for collecting these amounts is called the PAYG withholding system.

What is the effect of this instrument

11. The effect of this instrument is to support the PAYG withholding system, which provides a simple and convenient way for most people to meet their annual tax obligations as income is earned.
12. A number of groups rely upon the withholding schedules. They include employers, employees, professional tax advisers, payroll software developers, the Australian Taxation Office and payroll service providers.
13. This instrument also withdraws the earlier version of each affected withholding schedule to provide certainty to PAYG withholding payers with regard to their withholding obligations.
14. An assessment of the compliance cost impact indicates that the impact will be minor for both implementation and on-going compliance costs. The new instrument is of a minor or machinery nature.

Background

15. The PAYG system, introduced in *A New Tax System (Pay As You Go) Act 1999*, is a simple and convenient way for individual taxpayers to meet their annual income tax liabilities either through instalments or through withholding as their income is earned. This system aims to prevent large end-of-year tax bills for individuals. It also ensures that Government has the revenue it needs during the year to provide services and benefits to the community.
16. The TAA empowers the Commissioner to make withholding schedules specifying the amounts, formulas and procedures to be used for working out the amounts required to be withheld by entities. The TAA requires the Commissioner to make each withholding schedule publicly available.
17. Each withholding schedule is tailored to meet the circumstances of a particular class of payment or payee.

Consultation:

18. The making and publication of withholding schedules is a routine part of tax administration.
19. Community consultation is not appropriate or reasonably practicable for this instrument. The amended withholding schedules ensure that amounts are withheld in accordance with thresholds which have been indexed according to the applicable legislation.
20. These schedules ensure that withholding rates will match the tax which will be payable when payees lodge their tax returns.
21. The income tax rates which will apply from 1 July in any year only become clear following the handing down of the Federal Budget in early May and the subsequent events. The schedules then need to be finalised by the end of May to enable employers to be ready to apply the new rates.

22. The ATO will provide the necessary information to payroll and software providers, and those employers who code their own in-house payroll systems, to ensure that they have sufficient time to update their software packages.

Legislative references:

Taxation Administration Act 1953

Legislation Act 2003

A New Tax System (Pay As You Go) Act 1999

Acts Interpretation Act 1901

Human Rights (Parliamentary Scrutiny) Act 2011

Higher Education Support Act 2003

Trade Support Loans Act 2014

Social Security Act 1991

Student Assistance Act 1973

Veterans' Entitlements Act 1986

Family Law Act 1975

Australian Federal Police Act 1979

Migration Act 1958

Statement of Compatibility with Human Rights

This Statement is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Taxation Administration Act Withholding Schedules 2017

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview

This Legislative Instrument makes publicly available withholding schedules updated in accordance with the pay as you go (PAYG) system. The schedules provide certainty to payers about withholding correct amounts of tax on behalf of their payees, which then assists payees to meet their annual income tax liability.

Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms because the new instrument is of a minor or machinery nature. The schedules set out the amounts, formulas and procedures to be used for calculating the amount required to be withheld by entities from withholding payments.

Conclusion

This legislative instrument is compatible with human rights as it does not raise any human rights issues.