



Explanatory Statement

Taxation Administration Act Withholding Schedules No.2 2020

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 fifteen 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 instrument *Taxation Administration Act Withholding Schedules 2020* – F2020L00768, registered on 22 June 2020.
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 13 October 2020.

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, VET Student Loans and Financial Supplement repayments.
9. The withholding schedules being updated are schedules 1, 2, 3, 5, 6, 7, 8, 9, 11, 12, 13 and 15.
10. These withholding schedules are being updated in response to the changes to tax scales that are contained in Treasury Laws Amendment (A Tax Plan for the COVID-19 Economic Recovery) Bill 2020, which passed Parliament on 9 October 2020.. These updates are needed in order for payers to work out the amount they must withhold from payments made to individual taxpayers.

11. There are no updates to the remaining three schedules which will continue to apply from 13 October 2020.
12. 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

13. 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.
14. 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.
15. 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.
16. An assessment of the compliance cost impact indicates that the impact will be minor for both implementation and ongoing compliance costs. The new instrument is of a minor or machinery nature.

Background

17. 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.
18. 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.
19. Each withholding schedule is tailored to meet the circumstances of a particular class of payment or payee.

Consultation

20. The making and publication of withholding schedules is a routine part of tax administration.
21. Community consultation is not appropriate or reasonably practicable for this instrument. The amended withholding schedule ensures that amounts are withheld in accordance with thresholds which have been indexed according to the applicable amendments that are contained in Treasury Laws Amendment (A Tax Plan for the COVID-19 Economic Recovery) Bill 2020, passed Parliament on 9 October 2020.

22. These schedules ensure that withholding rates will match the tax which will be payable when payees lodge their tax returns.
23. 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:

Acts Interpretation Act 1901

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

Australian Federal Police Act 1979

Education and Other Legislation Amendment (VET Student Loan Debt Separation) Act 2018

Family Law Act 1975

Higher Education Support Act 2003

Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018

Human Rights (Parliamentary Scrutiny) Act 2011

Legislation Act 2003

Migration Act 1958

Social Security Act 1991

Student Assistance Act 1973

Taxation Administration Act 1953

Trade Support Loans Act 2014

Veterans' Entitlements Act 1986

Statement of Compatibility with Human Rights

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

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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 the 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.