



Explanatory Statement

Taxation Administration Withholding Schedules 2023

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 Withholding Schedules 2022 – F2022L00819*, registered on 24 June 2022 (the 2022 instrument).
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 2023.

What this instrument is 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 schedule being updated by this instrument is schedule 8. The other withholding schedules remain the same as in the 2022 instrument.
10. Withholding schedule 8 is being updated due to the annual indexing of the repayment income thresholds for study and training support loans. This update is needed in order for payers to work out the amount they must withhold from payments made to individual payees who have a study or training support loan debt.

11. There are no updates to the remaining fourteen schedules which will continue to apply from 1 July 2023.
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.

Effect of this instrument

13. This instrument supports 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. Subsection 15-25(1) of Schedule 1 to the TAA enables the Commissioner to make withholding schedules that specify the formulas and procedures to be used for working out the amount to be withheld by an entity. These schedules are relied upon by a number of groups including employers, employees, professional tax advisers, payroll software developers, the Australian Taxation Office (ATO) and payroll service providers.
15. To assist entities to determine the correct amount to withhold, several withholding schedules include withholding lookup tools. The lookup tools are spreadsheets where the amount to withhold is populated in the spreadsheet after an earnings amount is included for the pay period.
16. The lookup tools are freely available for entities to apply when using the withholding schedule. The withholding schedules with a lookup tool can be accessed on the ATO website (ato.gov.au) by searching for the withholding schedule's quick code number or the ATO website address which are listed below:

Schedule number	Quick code number	Title	ATO website address
2	63799	Schedule 2 – Tax table for individuals employed in the horticultural or shearing industry	https://www.ato.gov.au/Rates/Schedule-2---Tax-table-for-individuals-employed-in-the-horticultural-or-shearing-industry/
3	63800	Schedule 3 – Tax table for actors, variety artists and other entertainers	https://www.ato.gov.au/Rates/Schedule-3---Tax-table-for-actors,-variety-artists-and-other-entertainers/
9	63805	Schedule 9 – Tax table for seniors and pensioners	https://www.ato.gov.au/Rates/Schedule-9---Tax-table-for-seniors-and-pensioners/
15	69650	Schedule 15 – Tax table for working holiday makers	https://www.ato.gov.au/Rates/Schedule-15---Tax-table-for-working-holiday-makers/

17. Withholding lookup tools are incorporated by reference in this instrument in accordance with paragraph 14(1)(b) of the *Legislation Act 2003*, which allows a legislative instrument to incorporate any other document in writing which

exists at the time the legislative instrument commences, or at a time before its commencement.

18. This instrument incorporates the withholding lookup tools immediately before this instrument was registered on the Federal Register of Legislation. These lookup tools will remain unchanged for the life of this instrument. Changes to the withholding lookup tools will only be made when it is necessary to give effect to a new legislative instrument that both contains new withholding schedules and repeals the current instrument.
19. 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.
20. 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

21. The PAYG system, introduced by the *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.
22. 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.
23. Each withholding schedule is tailored to meet the circumstances of a particular class of payment or payee.

Consultation

24. The making and publication of withholding schedules is a routine part of tax administration.
25. 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 legislation, and the application of an additional visa type for working holiday makers.
26. These schedules ensure that withholding rates will approximate the tax which will be payable when payees lodge their tax returns.
27. 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

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Taxation Administration Withholding Schedules 2023

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 withholding 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.