Special circumstances and glossary 2011

Special circumstances affecting how your tax is calculated and a glossary of terms used in the tax return instructions.

Last updated 29 June 2011

Special circumstances

This section is a public ruling in accordance with Division 358 of Schedule 1 to the *Taxation Administration Act 1953* for individuals who use it reasonably and in good faith to complete their 2011 personal income tax return.

This means that if we state the law incorrectly in this section, or our advice on the application of the law in this section is incorrect and as a result you do not pay enough tax, we will not ask you to pay the extra tax.

Non-resident withholding tax

If you were a non-resident include at item 10 any interest that you received in 2010-11 while you were a resident of Australia.

Foreign employment termination payments

Payment you received due to termination of your employment overseas.

Dividends and franking credits

Check that you are entitled to claim the credits.

Australian superannuation lump sum payments

Tax rates that apply to superannuation lump sum payments

Leased luxury cars

You leased a luxury car and wish to claim a deduction.

Work-related travel expenses

Evidence you need to keep to claim overnight travel expenses.

Rules for certain types of gifts or donations

Following information is about different types of gifts or donations for which you may be able to claim a deduction.

Contributions and gifts to registered political parties and independent candidates and members

Claim a deduction for contributions or gifts to registered political parties.

Australian superannuation income stream tax offset

If you are completing item T4 and your payment summary does

Tax-free government pensions or benefits that are taken into account in the income tests

If you receive any of the government pensions or benefits.

Glossary

Glossary of terms.

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Non-resident withholding tax

If you were a non-resident include at item 10 any interest that you received in 2010-11 while you were a resident of Australia.

Last updated 29 June 2011

Gross interest

Do not include at item **10** any interest paid or credited to you when you were a non-resident if withholding tax was deducted.

If withholding tax was not deducted, on a separate piece of paper:

- print SCHEDULE OF ADDITIONAL INFORMATION - ITEM 10
- print your name, address and tax file number

- provide details of amounts of interest you received while you were a non-resident if withholding tax was not deducted.

Attach your schedule to page 3 of your tax return. Print **X** in the **YES** box at *Taxpayer's declaration* question **2a** on page 12 of your tax return.

We will advise you of the amount of withholding tax you have to pay on this interest.

Dividends

Do not include at item **11** any dividend income paid or credited to you during the period you were a non-resident, if:

- the dividend was fully franked, or
- the dividend was not fully franked, but either
  - withholding tax was (or should have been) withheld from the unfranked amount, or
  - the dividend statement shows the unfranked amount to be conduit foreign income.

You need to provide details of any dividend:

- that you received during any period you were a non-resident
- that was not fully franked and was not declared to be conduit foreign income, and
- on which you have not paid withholding tax.

On a separate piece of paper:

- print SCHEDULE OF ADDITIONAL INFORMATION - ITEM 11
- print your name, address, tax file number
- provide details of the dividend.

Attach your schedule to page 3of your tax return. Print **X** in the **YES** box at *Taxpayer's declaration* question **2a** on page xx of your tax return.

We will work out the amount of withholding tax you have to pay on the dividends and advise you of the amount.

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Foreign employment termination payments

Payment you received due to termination of your employment overseas.

Last updated 29 June 2011

An employment termination payment (ETP) that you received due to termination of your employment overseas is a foreign employment termination payment (foreign ETP):

- where you were an Australian resident for the period of your employment
- where the payment was exempt from income tax under that country's laws, and
- whether or not your foreign employer has an Australian business number (ABN) or has given you a *PAYG payment summary - employment termination payment*.

Note: A foreign ETP is different from a **foreign termination payment (FTP)**

Instructions for foreign ETPs

You need to convert your foreign ETPs into Australian dollars before you can complete item **4**. For information about exchange rates and how to convert foreign payments, go to our website or phone **13 28 61**.

- Then on a separate piece of paper:
  - print SCHEDULE OF ADDITIONAL INFORMATION - ITEM 4
  - print your name, address and tax file number

  - for each foreign ETP, print the name of the payer and the foreign country in which you were employed, and write the amount of the payment
  - for each foreign ETP, print the appropriate code letter (from those listed at step 4 in question **4 Employment termination payments**) or print **NO CODE LETTER APPLIES**.

- Attach your schedule to page x of your tax return.
- Print **X** in the **YES** box at *Taxpayer's declaration* question **2a** on page xx of your tax return.

You will need to include the total amount of these foreign ETPs in the amount you show at **I** item **4** on your tax return.

Go to step 1 in question **4 Employment termination payments**.

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Dividends and franking credits

Check that you are entitled to claim the credits.

Last updated 29 June 2011

If you are claiming franking credits at item **11**, certain rules apply. Read the following to check that you are entitled to claim the credits.

You must be a 'qualified person' to be entitled to a franking credit in respect of a dividend. To be a qualified person you must satisfy the holding period rule and the related payments rule.

Holding period rule

To be able to claim the franking credits the **holding period rule** requires you to hold shares 'at risk' for at least 45 days (90 days for certain preference shares).

When working out the number of days you held the shares at risk, do not count the day on which you acquired the shares and the day on which you disposed of the shares (or you entered into an arrangement to reduce the risk of making a loss on them).

This rule applies generally to shares bought on or after 1 July 1997.

Even if you do not hold the shares at risk for the required period you may still be entitled to claim the franking credits if:

- your total direct and indirect franking credit entitlement for the income year, including any entitlement you may have through a trust or partnership, is not above $5,000 (the small shareholder exemption), and
- the **related payments rule** (see below) does not apply to you.

In determining whether the holding period rule is satisfied for the prescribed minimum period, no account is taken of any days on which you entered into an arrangement to materially reduce the risk of making a loss on your shares, such as through derivatives, hedges, options and futures.

If you do not satisfy the holding period rule, include the franked amount of the dividend at **T** item **11** but do not include any franking credit amount at **U** item **11** for that dividend.

Related payments rule

The related payments rule applies to arrangements entered into after 7.30pm (Australian Eastern Standard Time) on 13 May 1997. Broadly, it applies to you if you effectively had no interest in a dividend because you were under an obligation to make, or were likely to make, a related payment to another party for the dividend and you did not hold your shares 'at risk' for at least 45 days (90 days for certain preference shares).

When working out the number of days you held the shares 'at risk', do not count the day on which you acquired the shares and the day on which you disposed of the shares (or you entered into an arrangement to reduce the risk of making a loss on them).

A related payment includes you, or your associate, doing something under an arrangement that has the effect of passing the benefit of the dividend to someone else.

If either the holding period rule or related payments rule is likely to affect you, see You and your shares 2011 (NAT 2632)**.**

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Australian superannuation lump sum payments

Tax rates that apply to superannuation lump sum payments

Last updated 29 June 2011

Table 1 sets out the tax rates that apply to superannuation lump sum payments. You may find this useful in completing items **8**, **M1** and **M2**.

Table 1

Tax rates applicable to the taxable components of superannuation lump sums
The Medicare levy is additional where applicable

	Your age at the time of payment	Taxed element		Untaxed elem	
		Amount	Tax rate	Amount	
Death benefit paid to:					
- dependant	Any age	Whole	Tax free	Whole	
- non-dependant	Any age	Whole	15%	Whole	
Superannuation lump sum (other than death benefit)					
	Under 55 years old	Whole	20%	Up to $1,155,000	
				Over $1,155,000	

	55 to 59 years old	Up to $160,000*	0%	Up to $160,000*
		Over $160,000*	15%	Over $160,000* up to $1,155,000
				Over $1,155,000
	60 years old and older	Whole	Tax free	Up to $1,155,000
				Over $1,155,000

* The low-rate cap could be less than $160,000 if, before July 2008, received an eligible termination payment after your 55th birthday or y received a superannuation lump sum in a prior income year that coun towards your entitlement to a superannuation lump sum tax offset. Fo more information on how we work out the amount of your low-rate go **www.ato.gov.au** and enter 'low rate cap on super lump sum benefits the 'Search for' box at the top of the page.

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Leased luxury cars

You leased a luxury car and wish to claim a deduction.

Last updated 29 June 2011

If you leased a luxury car and wish to claim a deduction at item **D1** or **D2**, the following information about luxury cars will help you.

A leased luxury car is a leased car that at the time the lease begins cost more than the 'luxury car limit' that applied in the relevant income year.

You can claim a deduction for the decline in value of a leased luxury car (but not for other leased cars). The car can be new or second-hand. You must use either the:

- 'one-third of actual expenses' method, or
- 'logbook' method.

When claiming a deduction for decline in value, the initial value that you use for the car is the limit that applied in the income year in which the lease began.

Table 2			
Luxury car limits for the past 10 years			
2010-11	$57,466	2005-06	$57,009
2009-10	$57,180	2004-05	$57,009
2008-09	$57,180	2003-04	$57,009
2007-08	$57,123	2002-03	$57,009
2006-07	$57,009	2001-02	$55,134

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Work-related travel expenses

Evidence you need to keep to claim overnight travel expenses.

Last updated 29 June 2011

Table 3 outlines the evidence you need to keep to claim overnight travel expenses.

Table 3		
Travel expense records		
	Domestic travel	**Overseas travel**

	Written evidence	Travel diary*	Written evidence	Travel diary*
If you did not receive a travel allowance:				
travel less than 6 nights in a row	Yes	No	Yes	No
travel 6 or more nights in a row	Yes	Yes	Yes	Yes
If you received a travel allowance and your claim does not exceed the reasonable allowance amount:				
travel less than 6 nights in a row	No	No	No**	No
travel 6 or more nights in a row	No	No	No**	Yes***
If you received a travel allowance and your claim exceeds the reasonable allowance amount:				
travel less than 6 nights in a row	Yes	No	Yes	No
travel 6 or more nights in a row	Yes	Yes	Yes	Yes***

*A travel diary is a document in which you record the nature, dates, places, times and duration of your activities and travel.

**Written evidence is required for overseas accommodation expenses regardless of the length of the trip but not for food, drink and incidentals.

***Members of international aircrews do not have to keep a travel diary if they limit their claim to the amount of the allowance received.

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Rules for certain types of gifts or donations

Following information is about different types of gifts or donations for which you may be able to claim a deduction.

Last updated 29 June 2011

The following information is about different types of gifts or donations for which you may be able to claim a deduction at item **D9**.

Gifts of property

You can claim a deduction for a gift of property (such as land, artwork or memorabilia) to an eligible organisation if:

you purchased the property within 12 months of making the gift, or

you purchased the property more than 12 months before you made the gift and the Australian Valuation Office (AVO) valued it at more than $5,000.

If you purchased the property within 12 months of making the gift, the amount deductible is the market value of the property at the time of the gift or the amount you paid for the property, whichever is less. If you purchased the property more than 12 months before you made the gift and the AVO valued it at more than $5,000, the amount deductible is the value of the property as determined by the AVO.

You cannot claim a deduction for a gift of property if you did not purchase it (for example, you inherited or won the property) unless the AVO has valued it at more than $5,000.

If you have made a gift of property under the Cultural Gifts Program the rules described above do not apply to you. For more information on working out whether you can claim a deduction for a gift under this program, see the publication *Cultural Gifts* (NAT 8236) available at **www.ato.gov.au** or phone **13 28 61**.

Receiving a benefit

Generally, you cannot claim a deduction for a donation if you received something in return (for example, a raffle ticket, dinner or a reduction in your child's school fees) other than tokens like lapel badges and stickers that promote the organisation. This rule does not apply to certain fund-raising events (see below).

Deductions for contributions relating to fund-raising events

You can claim a deduction for contributions to approved organisations that relate to fund-raising events where you received a minor benefit for your contribution, provided that:

- the contribution meets certain conditions, and
- the benefit you received does not exceed a specified limit.

A fund-raising event includes a fete, ball, gala show, dinner, performance or similar event.

You can claim a deduction if you made:

- a contribution of money or property to attend or participate in (or for the right to attend or participate in) a fund-raising event, or
- a contribution of money to purchase goods or services at a charitable auction.

Your contribution must meet the following conditions.

- It was made to an approved organisation.

- If it was money, it was more than $150.
- If it was property, you had either:
  - purchased it within 12 months of making the contribution, and both the market value on the day of the contribution and the purchase price were more than $150, or
  - owned it for more than 12 months and the AVO valued it at more than $5,000.
- If it was publicly listed shares, the value was more than $150 and less than or equal to $5,000.
- The fund-raising event was held in Australia.
- The GST-inclusive market value of the minor benefit you received for your contribution must have been worth no more than $150 or 20% of the value of the contribution, whichever is less. The receipt from the approved organisation will show the market value of the minor benefit you received.

Your deduction is the value of your contribution that satisfies the conditions set out above **less** the GST-inclusive market value of the minor benefit you received. Both of these amounts appear on your receipt.

There is no limit to the number of deductions you can claim for successful bids to purchase goods or services at a charitable auction, provided the above conditions are met.

Gifts of shares valued at $5,000 or less

You can claim a deduction for a gift of shares to an approved organisation if:

- the shares were held in a company that was listed on an approved Australian stock exchange on the day the gift was made
- you acquired the shares at least 12 months before making the gift ('acquired' includes purchased, inherited, won or received as a gift or a bonus)
- the parcel of shares had a market value of $5,000 or less on the day you made the gift

- the parcel of shares was valued at $2 or more.

You cannot claim a deduction for shares that are suspended from trading (other than a mere trading halt).

Gifts of shares held in different companies are separate gifts even if given at the same time.

A deduction is also available to you where you contribute the shares in return for a right permitting you or another individual to attend or participate in a particular fund-raising event in Australia. The gift must satisfy the rules for **contributions to fund-raising events**, the market value of the shares on the day they are contributed must be more than $150 but less than or equal to $5,000, and the market value of the right to attend or participate in the fund-raising event must not exceed 20% of the value of the shares or $150, whichever is less.

Be aware that capital gains tax applies when you make a gift of shares.

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Contributions and gifts to registered political parties and independent candidates and members

Claim a deduction for contributions or gifts to registered political parties.

Last updated 29 June 2011

You can claim a deduction for contributions or gifts to registered political parties, independent members of parliament (state or Commonwealth) or independent candidates in an election for parliament. Contributions must be $2 or more. The contribution or gift must be of money or property that you purchased during the 12 months before making the contribution or gift. If it is property, the amount deductible is the market value of the property at the time of the donation or the amount you paid for the property, whichever is less.

If the total of all your contributions and gifts to political parties during the year is greater than $1,500 then the maximum amount you can deduct is $1,500. A separate deduction limit of $1,500 applies if the total of all your contributions and gifts to independent candidates or independent members of parliament for the year exceeds $1,500.

You cannot claim a deduction for a political gift or contribution of $2 or more (including membership fees) to registered political parties, independent candidates and members of an Australian legislature if you make the gift or contribution in the course of carrying on a business.

The contribution must be to a political party that is registered under Commonwealth, state or territory electoral laws.

The contribution to an independent candidate or independent members must be to a candidate for election to, or member of, the Commonwealth Parliament, a state parliament, or the legislative assembly of the Northern Territory or Australian Capital Territory.

An independent candidate is an individual whose candidature in an election for parliament is not endorsed by a registered political party. An independent member is a member of parliament who is not a member of a registered political party.

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Australian superannuation income stream tax offset

If you are completing item T4 and your payment summary does not show the tax offset amount

Last updated 29 June 2011

Completing your tax return

Step 1

For each *PAYG payment summary - superannuation income stream* that does not show a tax offset amount, you can work out your tax offset amount by multiplying the taxed element and the untaxed element of the taxable component shown on each of those payment summaries by the relevant percentage shown in **table 4** below.

Worksheet 1		
Working out the amount of your tax offset		
The amount of your superannuation income stream benefit paid to you before your 55th or 60th birthday for which you are entitled to a tax offset	$	(a)
Relevant percentage from **table 4**	%	(b)
Multiply (a) by (b).	$	(c)
The amount of your superannuation income stream benefit paid to you on or after your 55th or 60th birthday for which you are entitled to a tax offset	$	(d)
Relevant percentage from **table 4**	%	(e)
Multiply (d) by (e).	$	(f)
Add (c) and (f).	$	(g)
Add up the tax offset amounts you have worked out at step (g) for each income stream.	$	(h)

Table 4				
Percentages used to work out your Australian superannuation inco stream tax offset				
Income stream	**Age of the deceased**	**Your age at date of each payment**	**Taxed element**	**U el**
Death benefit	Under 60 years old	Under 60 years old	15%	0'

	60 years old and older	Not applicable*	10%	
	60 years old and older	Any age	Not applicable *	1(
Disability superannuation benefit	Not applicable	Under 60 years old	15%	0'
		60 years old and older	Not applicable*	1(
All other income streams	Not applicable	Under 55 years old	0%	0'
		55-59 years old	15%	0'
		60 years old and older	Not applicable*	1(
* The tax offset does not apply because this is non-assessable non-exempt income, that is, tax-free income.				

Step 2

If you did not turn 55 or 60 years old during 2010-11, go to step 3.

If you turned 55 or 60 years old during the 2010-11 income year, a different percentage of tax offset may apply to the superannuation income stream you were receiving before and after your birthday.

You can ask your payer what amounts of your superannuation income stream attract a tax offset, or you can use **worksheet 1** on the previous page to work out the amount of your tax offset.

Use steps (a) to (g) in **worksheet 1** to work out the amount of your tax offset for each element of the superannuation income stream you received. If you received more than one superannuation income stream, repeat steps (a) to (g) for each of those income streams.

Step 3

If you have any *PAYG payment summary - superannuation income stream* that shows tax offset amounts, add up these amounts and the amount from (h) in **worksheet 1** above. Write the total amount at **S** item **T4** on your tax return. Do not show cents.

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Tax-free government pensions or benefits that are taken into account in the income tests

If you receive any of the government pensions or benefits.

Last updated 29 June 2011

If you receive any of the government pensions or benefits listed below, then you must include at IT 3 the part of those pensions and benefits that are exempt from tax. In some cases, all of your pension or benefit could be exempt from tax, and in other cases only part of it might be.

Do not include any part of these pensions and benefits that is a bereavement payment, pharmaceutical allowance, rent assistance or remote area allowance, or language, literacy and numeracy supplement.

- Disability support pension paid by Centrelink to a person who is under age-pension age
- Wife pension where both the recipient and their partner are under age-pension age or the recipient is under the age-pension age and their partner has died
- Carer payment under Part 2.5 of the *Social Security Act 1991*
- Pension for defence, peacekeeping or war-caused death or incapacity or any other pension granted under Part II or Part IV of the *Veterans' Entitlement Act 1986*
- Invalidity service pension where the veteran is under age-pension age
- Partner service pension where either:

- – the partner and the veteran are under the age-pension age and the veteran is receiving an invalidity service pension, or

  – the partner is under age-pension age, the veteran has died and was receiving an invalidity service pension at the time of death

- Income support supplement paid under Part IIIA of the *Veterans' Entitlements Act 1986*
- Defence Force income support allowance payable to you on a day when the whole of your social security pension or benefit, which is also payable to you on that day, is exempt from income tax under section 52-10 of the *Income Tax Assessment Act 1997*
- A special rate disability pension under Part 6 of Chapter 4 of the *Military Rehabilitation and Compensation Act 2004*
- A payment of compensation under section 68, 71 or 75 of the *Military Rehabilitation and Compensation Act 2004*
- A payment of compensation mentioned in paragraph 234(1)(b) of the *Military Rehabilitation and Compensation Act 2004*

If you are not sure whether a government pension or benefit you have received is a tax-free government pension or benefit for the purpose of this question, see Income tests and how they affect you, or phone **13 28 61**.

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Glossary

Glossary of terms.

Last updated 29 June 2011

Spouse

- Your 'spouse' includes another person (whether of the same sex or opposite sex) who:

- you were in a relationship with that was registered under a prescribed state or territory law,
- although not legally married to you, lived with you on a genuine domestic basis in a relationship as a couple.

Child includes:

Definitions for key terms in questions 4 and 8

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Child includes:

Last updated 29 June 2011

- your adopted child, stepchild or ex-nuptial child
- a child of your spouse, and
- someone who is your child within the meaning of the *Family Law Act 1975* (for example, a child who is considered to be a child of a person under a state or territory court order giving effect to a surrogacy agreement).

The following definitions are for key terms in questions **4** and **8**.

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Definitions for key terms in questions 4 and 8

Last updated 29 June 2011

Foreign termination payment (FTP)

Late termination payment

Transitional termination payment

Directed termination payment

Death benefit employment termination payment (ETP)

Death benefits dependant

Interdependency relationship

Terminal medical condition

Low-rate cap for taxable components of superannuation lump sum payments

Untaxed-plan cap for untaxed elements

QC 28061

Foreign termination payment (FTP)

Last updated 29 June 2011

If you think you received a foreign termination payment (discussed at question **4**), the following description will help you decide what to do.

An FTP is a payment that:

- you received in consequence of the termination of your employment in a foreign country and the payment relates only to a period of employment when you were a foreign resident, or
- was not exempt from income tax in the foreign country, you were an Australian resident during the period of the employment or service, and you received the payment as a result of the termination of your
  - employment in a foreign country where the foreign earnings were exempt from Australian tax for the period of employment, or
  - qualifying service on an approved project and the eligible foreign remuneration was exempt from Australian tax during the period of engagement.

The payment is not an FTP if it is a superannuation benefit paid from a superannuation fund, retirement savings account or an approved deposit fund or if it is a payment of a pension or an annuity.

Foreign termination payments are non-assessable non-exempt income, that is, tax-free income. Do not show them anywhere on your tax return.

QC 28061

Late termination payment

Last updated 29 June 2011

A late termination payment is a lump sum payment, similar to employment termination payments (ETPs) referred to in question **4**, which you received more than 12 months after the time you retired or ceased employment.

A late termination payment is treated as an ETP where:

- legal action about your entitlement to the ETP or about the amount of the ETP was commenced within 12 months of the termination of your employment, or
- the payment was made by a person who was appointed within 12 months of your employment termination as a liquidator, receiver or trustee in bankruptcy for the employer.

If these conditions are not met, and you received the payment more than 12 months after termination of your employment, then you must show the amount of the payment at item **1** on your tax return.

QC 28061

Transitional termination payment

Last updated 29 June 2011

A transitional termination payment is a payment to which 'transitional arrangements' apply. Transitional arrangements apply to an ETP:

- made to you on or after 1 July 2007, and
- to which you were entitled on 9 May 2006 under
  - a written contract

- an Australian or foreign law (or an instrument under such a law), or
- a workplace agreement under the *Fair Work Transitional Provisions and Consequential amendments Act 2009*.

The contract, law or agreement should specify the amount of the payment or a way to work out the specific amount of the payment.

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Directed termination payment

Last updated 29 June 2011

A transitional termination payment can, at your request, be paid by your employer to a complying superannuation fund or to purchase a superannuation annuity. These payments are called directed termination payments.

These payments are non-assessable non-exempt income, that is, tax-free income. Do not show directed termination payments anywhere on your tax return.

QC 28061

Death benefit employment termination payment (ETP)

Last updated 29 June 2011

A death benefit ETP is a lump sum payment which is paid to you because you are the beneficiary of a person who has died. If the ETP was paid to you as the trustee of a deceased estate, you must show the ETP on the tax return of the deceased estate, not on your personal tax return.

If you received a death benefit ETP from a deceased person's employer, the information provided on your *PAYG payment summary - employment termination payment* will depend on whether you were a **death benefits dependant** (see the definition below).

If you were a death benefits dependant, the payment summary will show only the taxable components of the ETP over $160,000. If you were not a death benefits dependant, the payment summary will show the entire taxable component of the ETP.

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Death benefits dependant

Last updated 29 June 2011

You are a death benefits dependant of the deceased if, at the time they died, you were:

- the surviving spouse
- a former spouse
- a child of the deceased and you were under 18 years old
- any other person who was financially dependent on the deceased, or
- any other person in an **interdependency relationship** with the deceased (see the definition on the next page).

For question **8**, you are also a death benefits dependant when you receive a superannuation lump sum payment because a member of the Australian Defence Force or of an Australian police force, including the Australian Protective Service, died in the line of duty.

If you disagree with the dependency status shown on your payment summary, you should discuss it with the payer.

For the purposes of the definition of death benefits dependant the following apply:

Spouse of the deceased includes another person (whether of the same or opposite sex):

- with whom the deceased was in a relationship that was registered under a prescribed law of a state or territory
- not legally married to the deceased person, who lived with the deceased on a genuine domestic basis in a relationship as a couple.

Child of the deceased includes:

- an adopted child, stepchild or ex-nuptial child of the deceased
- a child of the deceased's spouse
- someone who is a child of the deceased within the meaning of the *Family Law Act 1975* (for example, a child who is considered to be a child of a person under a state or territory court order giving effect to a surrogacy agreement).

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Interdependency relationship

Last updated 29 June 2011

An interdependency relationship exists if there is a close personal relationship between two persons and the following conditions are met:

- they live together and
- one or each of them provides the other with financial support, domestic support and personal care.

An interdependency relationship can also exist if there is a close personal relationship between two persons but one or more of the conditions stated above are not satisfied because of the physical, intellectual or psychiatric disability of one of the people.

However, two persons do not have an interdependency relationship if one of them provides domestic support and personal care to the other:

- under an employment contract or a contract for service, or

- on behalf of another person or organisation such as a government agency, a body corporate or a benevolent or charitable organisation.

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Terminal medical condition

Last updated 29 June 2011

You have a terminal medical condition if both the following circumstances are met:

- two registered medical practitioners (with at least one being a specialist practising in the area related to the illness or injury) have certified that you suffer an illness or have incurred an injury that is likely to result in your death within a 12-month period
- each of the certificates is less than 12 months old.

Superannuation lump sum payments paid to you are tax free if you have a **terminal medical condition** and, at the time of payment, or within 90 days of receiving payment, you have the required medical certificates stating that you have a terminal medical condition. You should not have received a PAYG payment summary for these payments.

If you received such a payment and tax was withheld, you can get a refund of the tax.

For information about how to get the refund and for further information about these payments, see Accessing your super if you have a terminal medical condition (NAT 72437).

QC 28061

Low-rate cap for taxable components of superannuation lump sum payments

Last updated 29 June 2011

This concession applies only to superannuation lump sums paid to you when you are 55 to 59 years old, that is, when you have reached your preservation age (55 years old) but before you turn 60 years old.

The low-rate cap is the maximum amount of taxable components (taxed and untaxed elements) that can be taxed at a concessional lower rate.

For 2010-11, the low-rate cap is $160,000, but it could be less for you if before July 2010 you received a superannuation lump sum after your 55th birthday.

The low-rate cap is a 'lifetime' limit. This means that the **taxed element** and **untaxed elements** of **all** superannuation lump sum payments that you receive when you are 55 to 59 years old will be taxed at a concessional rate until their total reaches the low-rate cap amount. Payments you receive in excess of the low-rate cap will be taxed at the tax rate shown in table 1.

Consequently, for 2010-11 the maximum amount for which you can be taxed at a concessional rate is $160,000 less any amount to which the concessional tax rate has previously been applied.

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Untaxed-plan cap for untaxed elements

Last updated 29 June 2011

The untaxed-plan cap is the maximum amount of the untaxed elements of your superannuation lump sum payments which will be subject to concessional tax rates.

For 2010-11, the untaxed-plan cap is $1.155 million. The cap is indexed to average weekly ordinary time earnings (AWOTE) and rounded down to the nearest multiple of $5,000. See Key superannuation rates and thresholds

There is a separate untaxed-plan cap for each superannuation fund you have. This means that, for each fund, the untaxed elements which make up your superannuation payments will be taxed at a concessional rate until these untaxed elements reach the untaxed-plan cap amount ($1.155 million plus future indexed increases). Amounts above this limit are taxed at the top marginal rate.

If you roll over an amount from one superannuation fund to another, any untaxed element that is part of that amount will count towards the untaxed-plan cap for the fund from which the amount was rolled over.

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Our commitment to you

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

If you feel that our information does not fully cover your circumstances, or you are unsure how it applies to you, contact us or seek professional advice.