



Private ruling application for a superannuation fund for foreign residents – withholding tax

Who should use this form

Use this form if you are a [superannuation fund for foreign residents](#). This form will help you apply for a private ruling regarding the exemption from withholding tax for superannuation funds for foreign residents under paragraph 128B(3)(j) of the *Income Tax Assessment Act 1936*.

Before you complete this form

Before you complete this form, read [Superannuation funds for foreign residents – exemption from withholding tax](#), which explains the types of information you will need to complete this form. Don't use this form if you are an individual. Instead refer to the advice contained above on our website.

We also have other helpful advice on our website:

- [Applying for a private ruling](#)
- [Reference guide for private rulings](#)

Completing this form

This form follows the format and numbering of [Private ruling application](#) NAT 74957. We have included specific questions that will help you submit the information we need to provide a private ruling regarding the exemption from withholding tax for superannuation funds for foreign residents.

To complete this form:

- answer questions in Sections A, B and C
- sign and date the declaration at Section D
- prepare electronic versions of all supporting documents – if they're in a language other than English, include English translated versions
- save a copy for your records
- email the completed form and attachments using instructions in Section E.

! Fields you MUST COMPLETE are marked (*)

Application date*

Day / Month / Year

/ /

Is the taxpayer seriously considering the scheme or circumstance?*

- No ! If you are not seriously considering the scheme or circumstance we may choose not to provide a ruling. Other ways to obtain guidance about how the law applies are available on our website: [ATO advice and guidance](#).
- Yes

Section A: Taxpayer details

Name of the superannuation fund for foreign residents that is applying for the exemption ('the fund')*

Section B: Contact person and required information

Contact person for this application

Title: Mr Mrs Miss Ms Other

Family name*

First given name*

Other given names

How would you like us to contact you?*

Email Phone Post

! We aim to contact you using your preferred channel. Providing your phone number allows us to get in touch with you quickly and easily. We need your postal address as we may not be able to provide your advice via an alternative channel.

Postal address

Address*

Country

Phone*

Mobile

Email address*

 You should be aware that the internet is not a secure environment. The ATO does not control the path of inbound or outbound emails/SMS, so the privacy of personal information sent by these unencrypted channels cannot be guaranteed.

Marking this box confirms you understand the risks of using unsecure channels to transmit information, including your personal details.

 For further information about online security, visit our website at ato.gov.au/onlinesecurity

Are you a tax professional?*

No

Yes Registered agent number (RAN)

Practice name

What interactions have you had with the ATO for the issues raised in this application?*

An audit or review (including being notified of a proposed audit or review)

Oral or written advice or a ruling has been provided or requested Quote reference number

No interactions

What period or periods does this application seek for the ruling to apply for?*

Detail the income years or other accounting periods covered by this application, for example, year ended 30 June 2024.

If you do not know the start and end dates, state which events will determine the start and end dates of the particular scheme.

Section C: Your application

We will provide a private ruling that answers the following question:

Is the fund excluded from liability to withholding tax on interest, dividend and non-share dividend income derived from its investment(s) listed in Part C – Investments in accordance with paragraph 128B(3)(b) of the *Income Tax Assessment Act 1936* (ITAA 1936)?

Relevant facts and circumstances

We will use the information below to work out if the fund is eligible for the exemption. This information will also provide us with the relevant facts and circumstances for the private ruling. We need full information so we can promptly process your application.

For each question, if you have documents or relevant website links that are available to address the question, refer to these in your answers and attach these with the application. This may include legislation, annual reports, member information booklets, deeds or contracts.

If you need more space for your responses, attach a document as a numbered appendix or schedule with the completed form.

Part A: Details of the fund's plans

1 List all pension or retirement plans the fund invests on behalf of.

Include full details of the relationship between the fund and each plan. Depending on your jurisdiction, pension or retirement plans may be referred to as pension or retirement schemes or a similar term.

2 What is the purpose of each of the plans and the fund?

3 What makes a member eligible to be part of each of the plans?

4 How are the plans and the fund governed?

For example, are the plans administered by the fund in its own right, through a trustee, through a board or by third parties?

5 Who or what makes contributions to the fund?

For example, do employees, employers, or both employees and employers make contributions to the fund?

6 Are the plans and the fund open or closed to contributions and new members?

7 Provide details of any mechanisms for the plans and the fund to be wound up or terminated.

Part B: Member distributions

8 What are all the benefits available to members?

Examples are retirement benefits, withdrawal on termination of employment, medical benefits, financial products, loans and withdrawals for housing and education purposes.

9 What events must occur for a member to be able to access the benefits listed in Question 8?

10 How are benefits paid out to members?

Who is responsible for ensuring the benefits are paid to the member and who makes the payment? For example, the fund pays the member directly from the assets of the fund a lump sum or a periodical payment. Or, another related or unrelated entity pays the member its benefit on behalf of the fund.

11 Provide details of any restrictions or rules preventing members from accessing their benefits early.

For example, any tax or penalties for accessing benefits before retirement.

Part C: Investments

12 Attach a list of Australian investments relevant to this private ruling application to your emailed application.

Include the following details for each investment:

- a) the investment name
- b) the investment type (shares, debt, trust units)
- c) the income type (dividends, interest or non-share dividends)
- d) the total A\$ value of investment
- e) the date acquired
- f) the percentage of entity owned (for equity investments)
- g) whether the fund holds any right to appoint a person to a board, committee or similar, either directly or indirectly (if this applies, also answer Question 13)
- h) whether the fund entered into or received any side letters, arrangements or agreements (if this applies, also answer Question 13)
- i) whether the fund holds any veto rights on security holder votes (if this applies, also answer Question 13)
- j) whether the fund holds any other influence potentially of a kind described in subsection 128B(3CD) of the ITAA 1936 (if this applies, also answer Question 13).

13 Only answer this if instructed to in Question 12.

Attach the following documents to your emailed application for each investment if Question 12g, h, i or j apply.

Attach:

- constituent documents of the investment
- side letters, arrangements or agreements
- documents evidencing any other influence potentially of a kind described in subsection 128B(3CD) of the ITAA 1936.

Part D: How the fund invests into Australia

14 List the names of any custodians or similar investment managers the fund uses to invest in Australia.

15 Provide the identity of any entities that are interposed between the fund and the investments listed in your answer to Question 12.

Examples of interposed entities include any pooling or other investment vehicles or subsidiary entities.

16 In your answer to Question 15, if you responded that the fund invests through an interposed entity into Australia, attach the following to your emailed application.

Attach:

- a structure diagram relevant to the investments listed in your answer to Question 12
- the constituent documents of any interposed entity
- any agreements between the fund and any interposed entity relevant to the investments listed in your answer to Question 12.

Part E: Confirmation of tax residency and other matters

17 Attach a letter from your tax authority confirming the fund's tax residency and its exemption from income tax on the Australian income derived from the investments you list in your answer to Question 12.

If you don't have a letter, attach a statement from the fund that references the relevant law or regulation that exempts the income in the foreign jurisdiction.

18 Attach the following statement to your emailed application.

The fund confirms that:

- a) the fund is an indefinitely continuing fund
- b) the fund was established in a country other than Australia
- c) the fund was established and is maintained only to provide benefits for individuals who are not Australian residents
- d) the fund's central management and control is carried on outside of Australia by entities none of whom are Australian residents
- e) no amount paid to the fund can be deducted under the *Income Tax Assessment Act 1997* (ITAA 1997) or ITAA 1936
- f) no tax offsets would be allowable for an amount paid to the fund or set aside for the fund
- g) the income of the fund is not non-assessable non-exempt income of the fund because of either
 - i. Subdivision 880-C of the ITAA 1997
 - ii. Division 880 of the *Income Tax (Transitional Provisions) Act 1997*.

Part F: Previous rulings

19 If you have previously received a private ruling from the ATO on the availability of the exemption, provide specific details of any material changes to the information provided in the previous application.

For example, provide details of any changes to eligibility to access member benefits, the operation of the fund and how the fund invests into Australia. Ensure that you provided an updated list of investments in Question 12.

Part G: Other information

20 Provide details of any other relevant information you would like considered as part of this application.

Examples include research and analysis on how you think the law applies to this scheme, and relevant references to legislation, public rulings and case law.

Section D: Declaration

Applying on your own behalf

If you are applying on your own behalf, you are declaring the following by signing this form; the information contained in this document, and any attached documents, is true and correct.

If you are making this declaration and you are not a senior executive of the fund (such as a head of pensions, treasurer, or public officer), you must attach a signed authority for you to act on behalf of the fund.

Agent

If you are an agent, by signing this form you are declaring that:

- this document and any attached documents have been prepared according to information supplied by the client (or clients) identified in Section A of this form
- you have received a declaration from each client stating that the information provided to you to prepare this application is true and correct
- you are authorised by each client to give this application to the Commissioner of Taxation.

Legal personal representative

If you are a legal personal representative, you are declaring the following by signing this form; the information contained in this document, and any attached documents, is true and correct.

Terms used

- 'You' includes a trustee of a trust, a partner in a partnership, public officer or company director.
- 'Legal personal representative' means an executor or administrator of a deceased estate, a person holding a general power of attorney or a trustee of an estate of a person under a legal disability.
- 'Agent' includes spouse, relative, friend, or another agent, tax agent or other tax professional authorised to give this application to the Commissioner of Taxation.

Privacy

The ATO is a government agency bound by the *Privacy Act 1988* in terms of collection and handling of personal information and tax file numbers. Further information about our [privacy policy](#) is available on our website.

Type your name below as your electronic signature

What is your relationship to the fund (for example, public officer, agent or legal personal representative)?

Date

Day	Month	Year
<input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>

Section E: How to lodge your application

Make sure you have provided all necessary information and prepared electronic copies of any relevant supporting documents.

Once complete, email this form and relevant attachments to PGIAdvice@ato.gov.au. If you have trouble completing or lodging the form, email us at PGIAdvice@ato.gov.au or [contact us](#) for help.