



Status: **legally binding**

Class Ruling

CenITex – Early Retirement Scheme 2025

❶ Relying on this Ruling

This publication (excluding appendix) is a public ruling for the purposes of the *Taxation Administration Act 1953*.

If this Ruling applies to you, and you correctly rely on it, we will apply the law to you in the way set out in this Ruling. That is, you will not pay any more tax or penalties or interest in respect of the matters covered by this Ruling.

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What this Ruling is about

1. This Ruling sets out the income tax consequences of the CenITex – Early Retirement Scheme 2025.
2. Full details of this scheme are set out in paragraphs 9 to 40 of this Ruling.
3. All legislative references in this Ruling are to the *Income Tax Assessment Act 1997*, unless otherwise indicated.

Who this Ruling applies to

4. This Ruling applies to you if you are an employee of CenITex (Cenitex) who receives a payment under this scheme.

When this Ruling applies

5. This Ruling applies from 29 May 2025 to 31 December 2025.

Ruling

6. The CenITex – Early Retirement Scheme 2025 (hereafter referred to as ‘the Scheme’) is an early retirement scheme for the purposes of section 83-180.

7. Accordingly, so much of the payment received by an eligible employee that exceeds the amount that could reasonably be expected to be received by the employee in

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consequence of voluntary termination of their employment at the time of the retirement will be an early retirement scheme payment.

8. In addition, so much of the Scheme payment as falls within the threshold calculated in accordance with section 83-170 is not assessable income and is not exempt income.

Scheme

9. The following description of the Scheme is based on information provided by the applicant. If the Scheme is not carried out as described, this Ruling cannot be relied upon.

10. Cenitex is a Victorian Government statutory authority that is only directed towards providing services to Victorian Government entities.

11. Cenitex provides shared information and communications technology (ICT) services, enabling departments, agencies and over 46,000 public servants to deliver services for all Victorians. The services provided by Cenitex to the Victorian Government include identity and network management, security, user workspace and cloud services.

12. Cenitex reports to the Minister for Government Services. The Department of Government Services provides oversight of Cenitex.

13. The Victorian Government 2021–22 Budget included investments to stimulate the economy, promote cost of living relief, create jobs and invest in the implementation of the Victorian Government's reform agenda.

14. These investments have been made in the context of changes to the economic landscape and increased expenditure to fund the health and economic response to the global COVID-19 pandemic. The Victorian Government is taking steps to progressively realign expenditure to target areas of highest priority and realise cost efficiencies.

15. As a result, many of the departments of the Victorian Government that utilise Cenitex's services have made significant changes to their operations that included reprioritisation of investment in ICT projects, maturing technology and moving to the cloud. These are driving changes in delivery models. Those departments are also subject to realising cost efficiencies.

16. Cenitex is a fee-for-service organisation largely driven by consumption of ICT services by customer departments.

17. As a result of these changes, Cenitex has seen a reduced demand for services, and this has also led to reduced forecast demand for services.

18. The change in the consumption pattern of Cenitex's services has therefore required Cenitex to re-evaluate the structure, size and composition of its workforce. Cenitex will be required to implement the early retirement scheme to rationalise and reorganise its operations, and reduce its number of employees, in order to align with the revised priorities and reduced customer demand described in paragraphs 15 to 17 of this Ruling.

19. Implementation of the early retirement scheme will provide an opportunity to re-profile the Victorian Public Service (VPS) classifications of employees engaged by Cenitex, increase workforce agility, streamline operations across Cenitex and therefore realise efficiencies in the delivery of services to departments of the Victorian Government that utilise Cenitex's services. Cenitex will realise savings while also taking the opportunity to refresh and re-profile the workforce to focus on identifying and executing revenue raising opportunities.

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20. As soon as practicable following approval of the Scheme, Cenitex will invite employees to place an expression of interest (EOI). Employees will have 10 business days from the date of invitation to submit an EOI.

21. The class of employees that are eligible to participate in and receive payments from the Scheme and that are eligible to place an EOI are those that satisfy the following criteria:

- (a) is an ongoing employee of Cenitex
- (b) is aged 55 years and above (but below the pension age as defined by the *Social Security Act 1991*), and
- (c) has completed at least one year of continuous service with Cenitex.

22. Employees are specifically excluded from participating in the Scheme if, at the dates of closure of the EOI period, they fall into one of the following groups:

- executive officers
- employees with less than one year of continuous service with Cenitex
- employees engaged on a casual basis
- employees engaged on a fixed-term basis
- employees on probation
- employees on leave without pay (other than for parental leave)
- employees in receipt of weekly payments of compensation under the *Workplace Injury and Rehabilitation and Compensation Act 2013* (Vic)
- employees who have resigned in writing as at the date of the Scheme's commencement, and
- employees who are subject to investigation or other formal process for allegations or serious misconduct which may lead to termination of the employee's employment.

23. Employees who submit an EOI will be notified of the outcome within 5 business days of the closure of EOI where:

- Cenitex's decision to decline an EOI or to make an offer to the employee in the Scheme is final, and
- those employees who receive an offer will have 10 business days from receipt of the offer, to accept or decline the offer to participate in the Scheme.

24. All eligible employees who accept an offer to participate in the Scheme will generally be required to terminate their employment and receive the early retirement payment within 4 weeks of accepting the offer. However, the date of termination may be extended by mutual agreement between Cenitex and the employee to ensure that operational requirements are met, however their termination date will be no later than 31 December 2025.

25. There is no minimum number of employees that Cenitex expects to retire under the scheme.

26. For operational reasons and to ensure that the number of employees participating in the scheme within a certain division is not oversubscribed, Cenitex may, when calling for EOIs, allocate a specific number of packages to each division.

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27. Where a particular team in a division has more than one employee eligible under the scheme, the number of packages offered will be capped at 50% of the total team headcount as at the end of the EOI period. For these purposes, headcount will be defined as the number of positions within the team or section which are occupied by an incumbent as at the conclusion of the EOI period.

28. If the number of employees initially willing to participate in the scheme is less than the number of packages available or if the number of packages allocated to a particular team have not been exhausted as part of the first EOI process, Cenitex may implement a second EOI process during the time period for the scheme.

29. In respect of the second EOI process, the eligibility criteria, detailed in paragraph 21 of this Ruling would remain the same, however the age requirement, in paragraph 21(b) of this Ruling would be lowered to at least 50 years of age as at the date of the conclusion of the second EOI process, subject to the exclusions in paragraph 22 of this Ruling, and would be tested at the closure of the second EOI period. Eligible employees who express interest in the second EOI process, would be offered the available packages in the order of age (based on date of birth), with priority being given to the oldest eligible employees.

Over-subscription

30. Where the number of employees in a particular internal division seeking to participate in the scheme exceeds the number of packages available to a particular internal division (such that the scheme is over-subscribed), including as a result of the threshold described in paragraph 27 of this Ruling, applications will be processed on the basis of the length of continuous service with the VPS, with those with a longer service period to be given priority, followed by an order of age (based on date of birth) with the oldest to be given priority.

31. If, at the end of the EOI period, there remains an over-subscription in any internal division and an under-subscription in another, the remaining packages and EOIs will be pooled together and the remaining packages offered to the remaining EOI applicants in the order that the EOI responses were received. If an employee of a particular team in a division is ineligible to participate in the scheme as the 50% threshold described in paragraph 27 of this Ruling has been achieved, the employee will remain ineligible even if there is an under-subscription across the scheme as a whole (across both the first and second EOI process).

Payments

32. Employees who retire under the Scheme will receive:

- 4 weeks pay, irrespective of the employees' length of service, this will be calculated on a pro rata basis for a part time employee
- a lump sum incentive of up to \$15,000 for a full-time employee, pro rata for a part time employee
- 2 weeks pay per each completed year of continuous service, up to a maximum of 15 years, pro rata for a part time employee, and
- an additional 4 weeks pay for employees that are over 54 years of age.

33. The payment in paragraph 32 of this Ruling is calculated based on completed years of service within the Victorian public sector only (as distinct from the VPS) and is

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calculated as at the date of their termination of employment. Details regarding what constitutes continuous service for these purposes is provided in Part 6 of the *Public Sector Industrial Relations Policy 2015*.

34. Employees will receive payment for any accrued statutory entitlements. However, these payments will not form part of the payment under the Scheme.

35. The Scheme payments are in addition to and would not be made in lieu of superannuation benefits.

36. Employees that have reached the pension age (as defined in the *Income Tax Assessment Act 1997* by reference to the *Social Security Act 1991*) at the time that they retire, provided they satisfy the other criteria set out at paragraph 21 of this Ruling, will be entitled to the payments described at paragraph 32 of this Ruling. However, any payments that they receive would not be early retirement scheme payments and would instead be employment termination payments to the extent that the payments are not mentioned in section 82-135.

37. There is no arrangement between Cenitex and terminating employees, or between Cenitex and any other person, for those employees to be employed after retirement under the Scheme.

38. An employee that participates in the Scheme will be restricted from working in the VPS for a period of 3 years.

39. Participation in the Scheme is voluntary.

40. There is no association between the eligible employees and Cenitex. Accordingly, the employees and Cenitex will be at arm's length.

Commissioner of Taxation

28 May 2025

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Appendix – Explanation

❶ *This Explanation is provided as information to help you understand how the Commissioner's view has been reached. It does not form part of the binding public ruling.*

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Requirements for an early retirement scheme

41. A scheme will be an early retirement scheme if it satisfies the requirements of subsection 83-180(3).

42. Subsection 83-180(3) states that:

A scheme is an **early retirement scheme** if:

- (a) all the employer's employees who comprise such a class of employees as the Commissioner approves may participate in the scheme; and
- (b) the employer's purpose in implementing the scheme is to rationalise or re-organise the employer's operations by making any change to the employer's operations, or the nature of the work force, that the Commissioner approves; and
- (c) before the scheme is implemented, the Commissioner, by written instrument, approves the scheme as an early retirement scheme for the purposes of this section.

All employees within a class approved by the Commissioner may participate in the Scheme

43. In order to satisfy the first requirement of subsection 83-180(3), a scheme must be offered to all employees in a class approved by the Commissioner.

44. The class of employees to whom early retirement will be offered under the Scheme is detailed in paragraph 21 of this Ruling. These employees are, all ongoing employees of Cenitex, who are aged 55 years and above (but below pension age as defined by the *Social Security Act 1991*) and who have completed at least one year of continuous service with Cenitex, subject to paragraph 22 of this Ruling.

45. The class may be expanded if there is a second EOI process in accordance with paragraph 28 of this Ruling. Where this occurs, employees applying in the second EOI process who are at least 50 years of age will be included in the class. The other criteria detailed in paragraph 21 of this Ruling will remain.

46. The Commissioner considers that, for the purposes of paragraph 83-180(3)(a), this is an appropriate class of persons for the Scheme to be offered to.

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47. Therefore, the first requirement of subsection 83-180(3) is satisfied.

The employer's purpose in implementing the Scheme is to rationalise or reorganise the employer's operations in a way approved by the Commissioner

48. The proposed scheme must be implemented by the employer with a view to rationalising or reorganising the operations of the employer, as required by paragraph 83-180(3)(b).

49. Paragraphs 13 to 19 of this Ruling describe the nature of the rationalisation or reorganisation of the employer's operations. In approving the Scheme, we have regard to the changes in the operations and nature of the workforce of Cenitex. It is considered that the Scheme is to be implemented by Cenitex with a view to rationalising or reorganising the operations of Cenitex for the purposes of paragraph 83-180(3)(b).

50. Accordingly, the second requirement of subsection 83-180(3) has been met.

The Scheme must be approved by the Commissioner prior to its implementation

51. The Scheme is proposed to operate for a period from 29 May 2025 to 31 December 2025.

52. The Scheme will be in operation for a period considered appropriate due to the circumstances of the reorganisation.

53. As the approval provided by this Ruling was granted prior to implementation, the third requirement of subsection 83-180(3) is satisfied.

Other relevant information

54. Under subsection 83-180(1), so much of the payment received by an employee because the employee retires under an early retirement scheme as exceeds the amount that could reasonably be expected to be received by the employee in consequence of the voluntary termination of their employment at the time of termination is an early retirement scheme payment.

55. It should be noted that in order for a payment to qualify as an early retirement scheme payment, it must also satisfy the following requirements (as set out in subsections 83-180(2), 83-180(5) and 83-180(6)):

- the retirement occurred before the employee reached pension age or such earlier date on which the employee's employment would have terminated under the terms of employment because of the employee attaining a certain age or completing a particular period of service (as the case may be)
- if the employee and the employer are not dealing with each other at arm's length (for example, because they are related in some way), the payment does not exceed the amount that could reasonably be expected to be made if the retirement was at arm's length
- at the time of retirement there was no arrangement between the employee and the employer, or between the employer and another person, to employ the employee after the retirement
- the payment must not be made in lieu of superannuation benefits, and

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- it is not a payment mentioned in section 82-135 (apart from paragraph 82-135(e)).

56. The term 'pension age' has the meaning given by subsection 23(1) of the *Social Security Act 1991*.

57. The term 'arrangement' is defined in subsection 995-1(1) as meaning:

... any arrangement, agreement, understanding, promise or undertaking, whether express or implied, and whether or not enforceable (or intended to be enforceable) by legal proceedings.

58. In accordance with section 83-170, an early retirement scheme payment that falls within the specified limit is referred to as the 'tax free' amount and will not be assessable income and will not be exempt income.

59. For the 2024–25 income year, the tax free amount is limited to \$12,524 (base amount) plus \$6,264 (service amount) for each whole year of completed employment service to which the early retirement scheme payment relates. It should be noted that 6 months, 8 months or even 11 months do not count as a whole year for the purposes of this calculation.

60. The total of the amount received on the termination of employment calculated in accordance with paragraph 32 of this Ruling will qualify as an early retirement scheme payment.

61. The total payment calculated in accordance with paragraph 32 of this Ruling will be measured against the limit in accordance with the formula mentioned in paragraph 59 of this Ruling to determine the tax free amount of the early retirement scheme payment.

62. The tax free amount will not be:

- an employment termination payment (ETP), and
- able to be rolled-over into a super fund.

63. Any payment in excess of this limit will be an ETP and will be split into tax free and taxable components. The tax free component of an ETP includes the pre-July 83 segment of the payment. The tax free component is not assessable income and is not exempt income.

64. The taxable component of the ETP will be taxed at various rates depending on the person's age. It should be noted that the 'whole of income cap' does not apply to any part of the early retirement scheme payment.

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References

Related rulings and determinations:

TR 2006/10

Legislative references:

- ITAA 1997 82-135
- ITAA 1997 82-135(e)
- ITAA 1997 83-170
- ITAA 1997 83-180
- ITAA 1997 83-180(1)
- ITAA 1997 83-180(2)
- ITAA 1997 83-180(3)
- ITAA 1997 83-180(3)(a)

- ITAA 1997 83-180(3)(b)
- ITAA 1997 83-180(5)
- ITAA 1997 83-180(6)
- ITAA 1997 995-1(1)
- Social Security Act 1991 23(1)
- Workplace Injury and Rehabilitation and Compensation Act 2013 (Vic)

Other references

- Public Sector Industrial Relations Policy 2015
-

ATO references

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