



Status: **legally binding**

Class Ruling

Department of Energy, Environment and Climate Action – Field Staff Early Retirement Scheme 2026

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 an early retirement scheme implemented by the Department of Energy, Environment and Climate Action (the Department).
2. Details of this scheme are set out in paragraphs 9 to 35 of this Ruling.
3. All legislative references in this Ruling are to the *Income Tax Assessment Act 1997* (ITAA 1997), unless otherwise indicated.

Who this Ruling applies to

4. This Ruling applies to you if you are an employee of the Department who receives a payment under this scheme.

When this Ruling applies

5. This Ruling applies from 19 February 2026 until 30 October 2026.

Ruling

6. The Department of Energy, Environment and Climate Action – early Retirement Scheme 2026 (Scheme) is an early retirement scheme for the purposes of subsection 83-180(3).

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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 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. The Department of Energy, Environment and Climate Action is a Victorian Government department that manages various functions related to energy, environment, climate action and other related areas in Victoria.

11. Discussions with the relevant union and its members over several years identified a need for appropriate transition to retirement for field staff roles held by the Department employees employed under the Field Staff and Wild Dog Controllers Agreement 2021.

12. Field staff includes Forest and Fire Operations Officers and Field Operations Supervisors who deliver forest management activities in Victoria's state forests and undertake bushfire management and firefighting activities in Victoria's national parks, state forests and protected public land.

13. These roles are generally physically demanding roles, located across rural and regional Victoria, which are held by individuals for extended periods of time. The impacts of ageing while working long-term in physically demanding roles results in individuals often remaining in these positions longer than the employees would consider ideal.

14. The Department has started to modernise the profile of its field-based workforce, adding over 60 roles to its structure, including field-based roles with specialisations in training, cultural heritage and values assessment. This is adding skills into the overall workforce mix.

15. The purpose of the Scheme is to reorganise the Department's workforce and business operations in recognition of the changing landscape of its workforce, including occupational skills that will be transferred to other employees. The objectives of the Scheme are to facilitate early retirement of employees and is consistent with its transition to a broader range of skills and capabilities.

16. The class of employees eligible to participate in and receive payments under the Scheme (eligible employees) are those that satisfy the following criteria as at the date of the closure of the expression of interest (EOI) period (subject to the exclusions set out at paragraph 17 of this Ruling):

- (a) are ongoing field staff employees of the Department under the Field Staff and Wild Dog Controllers Agreement 2021 (or subsequent agreements)
- (b) are at least 54 years of age (but below the pension age as defined by the *Social Security Act 1991* (Social Security Act)), and
- (c) have completed at least 10 years of continuous service with the Department.

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17. Employees who satisfy any of the following criteria at the date of closure of the EOI period will be specifically excluded from participating in the Scheme:

- employees who have resigned in writing
- employees in receipt of payments of compensation under the *Workplace Injury and Rehabilitation and Compensation Act 2013* (Vic)
- employees on probation
- employees engaged on a fixed-term or casual basis (including those on secondment from other Victorian Public Sector (VPS) or public sector agencies)
- Vertebrate Species Management Officers employed under the Field Staff and Wild Dog Controllers Agreement 2021 (or subsequent agreement)
- employees under the Victorian Public Service Enterprise Agreement 2024
- employees with a Senior Executive Service classification
- employees with less than 10 years of continuous service with the Department
- employees who are subject to an investigation or other formal process for allegations of misconduct or serious misconduct which may lead to termination of the employee's employment
- employees who have voluntarily detached from their ongoing position, and
- employees engaged in any of the following employment programs
 - Victorian Government graduate program
 - DEECA Science graduate program
 - Australian Network on Disability Stepping Into internship program.

18. As soon as practicable following approval of the Scheme, the Department will offer employees within the class the opportunity to participate in the Scheme and retire early. Employees will have 14 calendar days from the date of invitation to submit an EOI. There is a limit on the number of packages available.

19. Employees will be notified of the outcome of their EOI within 14 calendar days of the closure of the EOI period. Those employees who are made an offer will have 14 calendar days to accept or decline the offer to participate in the Scheme.

20. 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.

21. The date of termination may be extended by mutual agreement between the Department and the employee, to ensure the maintenance of the service delivery and to account for operational requirements. Their termination date must be no later than 30 October 2026.

22. Where the number of employees seeking to participate in the Scheme exceeds the number of packages available (such that the Scheme is oversubscribed), applications will be processed on the basis of age (based on date of birth), with the oldest employee to be given priority, followed by the employee's length of continuous service with the VPS, with those with a longer service period to be given priority.

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23. If the number of employees initially willing to participate in the Scheme is less than the number expected by the Department, the Department may implement a second EOI process during the Scheme period. For the second EOI process, the conditions in paragraph 16 of this Ruling would remain the same. However, the age requirement in subparagraph 16(b) of this Ruling would be lowered to at least 50 years of age (but below the pension age as defined by the Social Security Act) as at the date of the closure of the second EOI process, subject to exclusions in paragraph 17 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.

24. Given the Department's responsibilities in relation to bushfire and emergency responses across Victoria, and the key role that many of the Department's employees play in these areas, staff exits under the scheme will be offered in a series of tranches to ensure that risks to business continuity and the delivery of critical services (particularly emergency management capability-related services) are appropriately managed.

25. The allocation of tranches to each participating employee would be based on the employee's role, business continuity considerations and operational requirements.

26. Employees who participate in the Scheme will receive, on termination of employment, an amount comprising:

- (a) 4 weeks' pay (irrespective of the employees' length of service)
- (b) a lump sum incentive of up to \$15,000 for a full-time employee
- (c) 2 weeks' pay per each completed year of continuous service, up to a maximum of 15 years, and
- (d) an additional 4 weeks' pay for employees that are over 54 years of age.

27. For ongoing part-time employees, payments shown at paragraph 26(a) and (b) of this Ruling will be calculated on a pro rata basis. For employees who have a period of part-time employment in the most recent years of continuous service, payment shown at paragraph 26(c) of this Ruling will be calculated on a pro rata basis.

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

29. The Scheme payment will not be made in lieu of superannuation benefits.

30. Any employee who terminates employment other than under the Scheme will not be entitled to receive the payment.

31. Employees who retire under the Scheme will do so before they reach the pension age (as defined in the ITAA 1997 by reference to the Social Security Act).

32. Employees who have reached the pension age (as defined in the ITAA 1997 by reference to the Social Security Act) at the time they retire, provided they satisfy other criteria as described in paragraph 16 of this Ruling, will be entitled to the payments set out at paragraph 26 of this Ruling. However, these payments would not be early retirement scheme payments and would instead be an employment termination payment (ETP) to the extent the payments are not mentioned in section 82-135.

33. At the time of retirement, there will be no arrangement between the Department and terminating employees, or between the Department and any other person, for those employees to be employed after retirement.

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34. An employee who participates in the Scheme will be restricted from working in the VPS for a period of 18 months.

35. There is no association between the eligible employees and the Department. All payments will be made on an arm's length basis.

Commissioner of Taxation

18 February 2026

Status: **not legally binding**

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

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

37. 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

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

39. The class of employees to whom early retirement will be offered under the Scheme is set out in paragraph 16, subject to paragraph 17, of this Ruling.

40. 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.

41. 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

42. 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).

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43. Paragraphs 11 to 15 of this Ruling describe the nature of the rationalisation or reorganisation of the employer's operations. In approving the Scheme, the Commissioner has had regard to the changes in the operations and nature of the workforce of the Department. It is considered that the Scheme is to be implemented by the Department with a view to rationalising or reorganising the operations of the Department for the purposes of paragraph 83-180(3)(b).

44. Accordingly, the second requirement of subsection 83-180(3) is satisfied.

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

45. The Scheme is proposed to operate for a period from 19 February 2026 to 30 October 2026.

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

47. 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

48. 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.

49. It should be noted that in order for a payment to qualify as an early retirement scheme payment, it must also satisfy all of the following requirements (as set out in subsections 83-180(2), (5) and (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.
- It is not a payment mentioned in section 82-135 (apart from paragraph 82-135(e)).

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

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51. The term 'arrangement' is defined in subsection 995-1(1) as:
- ... any arrangement, agreement, understanding, promise or undertaking, whether express or implied, and whether or not enforceable (or intended to be enforceable) by legal proceedings.
52. 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.
53. For the 2025–26 income year, the tax-free amount is limited to \$13,100 (base amount) plus \$6,552 (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.
54. The total of the amount received on the termination of employment calculated in accordance with paragraph 26 of this Ruling will qualify as an early retirement scheme payment.
55. The total payment calculated in accordance with paragraph 26 of this Ruling will be measured against the limit in accordance with the formula mentioned in paragraph 53 of this Ruling to determine the tax-free amount of the early retirement scheme payment.
56. The tax-free amount will not be:
- an ETP, and
 - able to be rolled over into a super fund.
57. 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.
58. 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.

Status: **not legally binding**

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(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)
 - TAA 1953
 - Social Security Act 1991 23(1)
 - Workplace Injury and Rehabilitation and Compensation Act 2013 (Vic)
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ATO references

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