Status: **legally binding**

Class Ruling

National Gallery of Victoria – Early Retirement Scheme 2026

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.

Table of Contents **Paragraph**

What this Ruling is about

1. This Ruling sets out the tax consequences of an early retirement scheme implemented by the National Gallery of Victoria (NGV).

2. Full details of this scheme are set out in paragraphs 9 to 38 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 the NGV who receives a payment under this scheme.

When this Ruling applies

5. This Ruling applies from 25 June 2026 to 31 October 2026.

Ruling

6. The NGV Early Retirement Scheme 2026 (Scheme) is an early retirement scheme for the purposes of subsection 83-180(3).

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 the 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 NGV is a statutory authority that currently sits within the Victorian Government Department of Jobs, Skills, Industry and Regions.

11. The NGV was founded in 1861 to collect, conserve, develop and promote the state's works of art and bring arts to the people of Victoria. The NGV is a community asset that contributes to the cultural, educational, social and economic wellbeing of Victorians.

12. The purpose of implementing the Scheme is to rationalise or reorganise the NGV's operations.

13. The NGV is primarily funded by the Victorian Government. In the current environment, reductions in public sector funding combined with rising operating costs have placed pressure on the sustainability of its existing operating model. To respond to these financial constraints, the NGV is undertaking a broader organisational initiative to realign expenditure toward priority areas and improve operational efficiency. Reorganisation of work to enable workforce reductions is fundamental to this.

14. This reorganisation includes aligning roles, processes and activities with core business needs, while maintaining service delivery and operational effectiveness. As part of this process, it has been determined that a reduction in employee numbers within defined criteria is necessary to support long-term financial sustainability and organisational efficiency.

15. Any associated workforce reductions are expected to necessitate consideration of a reprioritisation of the NGV's core operations and strategic priorities. This may include a review of existing functions, programs and service delivery arrangements, and could involve adjustments to the timing, scope or resourcing of certain activities, with the objective of ensuring that critical statutory, regulatory and service obligations continue to be met within available resources.

16. The Scheme will:

- reduce the size and cost of the ongoing workforce in targeted areas
- enable the reallocation of funding to priority programs, and
- facilitate structural changes in the workforce aligned to operational goals.

17. The NGV can maintain operational continuity while improving efficiency and productivity by focusing on the following:

- reviewing workflows to simplify steps and create efficiencies
- ensuring key strategic objectives are prioritised with other non-essential activities reduced
- leveraging existing technology and tools to automate routine tasks, creating efficiencies, and

- actively managing workloads and performance.

18. The NGV will apply the *Public Sector Industrial Relations Policies 2025*[1] through offering the payment of voluntary departure packages to eligible employees under the Scheme.

19. All eligible employees are employed under the Cultural and Creative Agencies Enterprise Agreement 2025.

20. There are 185 employees in the class to which the NGV proposes to offer the early retirement scheme.

21. The NGV will be making up to 20 packages available under the Scheme.

22. The class of employees that are eligible to participate in the Scheme are those employees who, at the date that the Scheme comes into effect, meet the following criteria:

- are engaged in ongoing employment
- have 3 or more years of service
- are Victorian Public Service (VPS) classification grades VPS 2 to VPS 6, and
- are aged under the pension age as defined by the *Social Security Act 1991* as at the date of termination of employment under the Scheme.

23. The following employees are specifically excluded from participating in the Scheme:

- employees engaged on a fixed-term basis, including those on secondment from other public sector agencies
- casual employees
- senior executive service employees
- employees who are employed by the NGV in positions that are funded by a non-government grant
- employees subject to a probation period
- employees who are on unpaid leave at the time of separation of employment, and
- employees currently under investigation for allegations of misconduct or serious misconduct.

24. As soon as practicable following the approval of the Scheme, eligible employees will be invited to submit their expression of interest (EOI) to participate in the Scheme. Employees will have 14 calendar days from the date of invitation to submit an EOI.

25. If there is insufficient take up by eligible employees during the initial EOI period, a second-round opportunity will be available to all eligible employees. Employees will have 14 calendar days from the start date of the second-round opportunity to submit an EOI.

26. Employees will be notified of the outcome of their EOI within 2 weeks and those employees who are made an offer will have 2 weeks to accept or decline the offer to participate in the Scheme. Once an offer is accepted, voluntary withdrawal from the Scheme will not be permitted.

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[1] Victorian Government (2025) *Public Sector Industrial Relations Policies*, https://www.vic.gov.au/public-sector-industrial-relations-policies-2025.

27. There is a limit on the number of packages available under the Scheme.

28. If significant numbers of applications are made within one department, participation will be limited to maintain operating staffing requirements in the department. Preference will be given to the following employees:

- employees with the highest substantive VPS classification, and
- employees with the greatest number of years of service.

29. The NGV reserves the right to reject an application if the role being performed by the employee is essential to the NGV and it would be detrimental to the NGV if they cannot be replaced.

30. Where an employee accepts a formal offer to participate under the Scheme, they will terminate their employment with the NGV by way of resignation. The actual date of termination will be discussed between the NGV and the employee and finally determined by the NGV in accordance with the NGV's operational requirements.

31. Employees who accept an offer to retire under the Scheme will be subject to a 3-year restriction on re-employment in the VPS. Employees who accept an offer to retire under the Scheme are required to agree not to seek or accept re-employment with, or 'fee for service' from, a public sector employer (including public sector employment through a labour hire agency) for a minimum of 3 calendar years from the date of their separation.

32. Employees who retire under the Scheme will be paid:

- Component A – 4 weeks' pay (irrespective of the employee's length of service)
- Component B – 2 weeks' pay per completed year of continuous service (up to a maximum of 15 years), and
- Component C – a lump sum departure incentive of up to $15,000 (for a full-time employee).

33. All Voluntary Departure Package payments will be calculated on a pro rata basis for period of part-time employment.

34. The payment made under the Scheme is not in lieu of any superannuation benefit an employee may otherwise have been entitled to.

35. Employees retiring under the Scheme will receive their statutory entitlements, such as annual leave and long service leave, where applicable. However, these amounts will not form part of the payment under the Scheme.

36. The NGV and employees who participate under the Scheme will do so at arm's length.

37. The retirement of employees who receive a payment under the Scheme will occur before they reach pension age.

38. There will be no agreements made between NGV and an eligible employee, or NGV and another party, to employ any employee after retirement under the Scheme.

Commissioner of Taxation
24 June 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.***

Table of Contents **Paragraph**

Requirements for an early retirement scheme

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

40. 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

41. 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.

42. The class of employees to whom early retirement will be offered under the Scheme is set out in paragraph 22 of this Ruling.

43. We consider that, for the purposes of paragraph 83-180(3)(a), this is an appropriate class of persons for the Scheme to be offered to.

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

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

45. 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).

46. 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 had regard to the changes in the operations and nature of the workforce of the NGV. It is considered that the Scheme is to be implemented by the NGV with a view to rationalising or reorganising the operations of the NGV for the purposes of paragraph 83-180(3)(b).

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

Scheme must be approved by the Commissioner prior to its implementation

48. The Scheme is proposed to operate for a period from 25 June 2026 to 31 October 2026.

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

50. 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

51. 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.

52. 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), (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)).

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

54. 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'.

55. 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.

56. 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.

57. 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.

58. The total payment calculated in accordance with paragraph 32 of this Ruling will be measured against the limit in accordance with paragraph 56 of this Ruling to determine the tax-free amount of the early retirement scheme payment.

59. The tax-free amount will not be:

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

60. 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.

61. 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

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)
- Social Security Act 1991 23(1)

Other references:
- Victorian Government (2025) *Public Sector Industrial Relations Policies*

ATO references

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