


SCD 98/D1 - Superannuation contributions: employer eligible termination payments ('golden handshakes')

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This document has been finalised by SCD 1999/5.

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Draft Superannuation Contributions Determination

Superannuation contributions: employer eligible termination payments ('golden handshakes')

1. Section 8 of the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* (SCT(A&C) Act) provides that only the post 20 August 1996 part of an employer eligible termination payment (also known as a 'golden handshake'), rolled over on or after 1 July 1997 to a superannuation provider, is treated as a surchargeable contribution.

2. Transitional rules apply to determine the surchargeable contributions when an employer eligible termination payment is rolled over in the period between 20 August 1996 and before 20 August 2001. The rules ensure that only the post 20 August 1996 part of the employer eligible termination payment is treated as surchargeable.

3. The effect of the section is to bring the treatment of employer eligible termination payments rolled over to a superannuation provider during the transitional period into line with those taken in cash under the provisions of the *Termination Payments Tax (Assessment and Collection) Act 1997*.

Application

4. The Commissioner will administer the provisions of paragraph 8(2)(c)(iii) and subsection 8(2A) of the SCT(A&C) Act in the following manner to ensure consistency in their application.

- ***Transitional period (from 20 August 1996 and before 20 August 2001)***

5. The transitional provision in subsection 8(2A) requires an apportionment of the rolled over employer eligible termination payment accrued since 20 August 1996 over the total period of service to which the benefit relates. This is calculated using the formula:

$$\frac{\text{Post - 20 August 1996 period}}{\text{Total period}} \times \text{Eligible termination payment}$$

where:

post-20 August 1996 period means the number of days in the period of the taxpayer's employment for which the eligible termination payment was made that occurred after 20 August 1996;

total period means the number of days in the period of the taxpayer's employment for which the eligible termination payment was made; and

eligible termination payment has the same meaning as in paragraph 27A(1)(a) of the *Income Tax Assessment Act 1936* (other than the retained amount of a CGT exempt component, the retained amount of a post 30 June 1994 invalidity component or an ETP from an employee share acquisition scheme).

- **The period from 20 August 2001**

6. Subparagraph 8(2)(c)(iii) applies to amounts rolled over from 20 August 2001 and applies to specified rollover amounts accrued after 20 August 1996. In order to ensure consistency with the application of section 8, the following formula is to be used to calculate that part of the specified rollover amount to be treated as a surchargeable contribution for amounts rolled over from 20 August 2001:

$$\frac{\text{Post - 20 August 1996 period}}{\text{Post 1 July 1983 period}} \times \text{Specified Rollover Amount}$$

where:

post-20 August 1996 period means the number of days in the period of the taxpayer's employment for which the eligible termination payment was made that occurred after 20 August 1996;

post 1 July 1983 period is the period applicable to the specified rollover amount; and

the **specified rollover amount** is a specified rollover amount for the purposes of Division 8 or 8A of Part III, or for the purposes of Part IX, of the *Income Tax Assessment Act 1936*.

Examples

Example 1

- **Transitional period (from 20 August 1996 and before 20 August 2001)**

7. Tracey, who commenced employment with her previous employer on 1 July 1980, resigned from that employment on 20 August 1999. She was given an employer eligible termination payment of \$50,000 which was rolled over to a superannuation provider. The amount of the employer eligible termination payment to be treated as a surchargeable contribution is:

No. of days from 1 July 1980 to 20 August 1999	6 990
No. of days from 20 August 1996 to 20 August 1999	1 096

Amount to be treated as a surchargeable contribution is calculated as follows:

$$\frac{1\ 096}{6\ 990} \times 50\ 000 = \$7\ 840$$

Example 2

- **Period from 20 August 2001**

8. Therese received an employer eligible termination payment of \$50,000 when she left employment on 20 August 2004. The employer eligible termination payment included a specified

rollover amount of \$ 40,000. She has rolled over the entire employer eligible termination payment to a superannuation provider. The amount to be treated as a surchargeable contribution is:

No. of days from 1 July 1983 to 20 August 2004	7 722
No. of days from 20 August 1996 to 20 August 2004	2 923

Amount to be treated as a surchargeable contribution is calculated as follows:

$$\frac{\text{No. of days from 20 August 1996 to 20 August 2004}}{\text{No. of days from 1 July 1983 to 20 August 2004}} \times \text{Specified Rollover Amount}$$

$$\frac{2\,923}{7\,722} \times 40\,000 = \$15\,141$$

Your comments

9. If you want to comment on this draft Superannuation Contributions Determination, please send your comments in writing by: Friday 20 June 1998

to:

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Commissioner of Taxation

20 May 1998

FOI INDEX DETAIL: [Reference No.](#)

[Related Determinations](#): SCD 98/1; SCD 98/2

[Related Rulings](#):

[Subject Ref](#): eligible termination payments; employer eligible termination payments; ETP rollover; golden handshakes; specified rollover amounts; superannuation; superannuation contributions; surchargeable contributions

[Legislative Ref](#): SCT(A&C)A 8; SCT(A&C)A 8(2)(c)(iii); SCT(A&C)A 8(2A); ITAA36 27A(1)(a); ITAA36 Div 8, Pt III; ITAA36 Div 8A, Pt III; ITAA36 Pt IX

[Case Ref](#):

[ATO Ref](#): NAT 98/3015-4