



Taxation Administration Act 1953

PAYG Withholding Variation: Allowances

Explanatory Statement

General Outline of Instrument

1. This instrument varies the amount of withholding required by a payer under the pay as you go withholding system for allowance payments in certain circumstances.
2. This instrument is made by the Commissioner of Taxation (the Commissioner) pursuant to section 15-15 of Schedule 1 to the *Taxation Administration Act 1953*.
3. This is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.
4. This legislative instrument revokes Legislative Instrument No. F2013L00521 registered on the 21st March 2013.

Date of effect

5. The instrument applies from 1 July 2015.

What is this instrument about?

6. Legislative Instrument No. F2013L00521 registered on the 21st March 2013 provided a variation to the rate of withholding from a number of allowances when certain conditions are met. Broadly the variation applies in certain cases when the allowance is expected to be fully expended on tax deductible items and the payee would not be required to substantiate expenditure incurred in relation to the allowance because of the provisions contained in Division 900 of the *Income Tax Assessment Act 1997* (ITAA 1997).
7. This instrument varies from Legislative Instrument No. F2013L00521 in only one respect. The variation for cents per kilometre car expense payments has been adjusted because of a proposed change to calculation rules announced in the federal budget on 12 May 2015. If passed, the change is to take effect from 1 July 2015.

What is the effect of this Instrument?

8. The variation for cents per kilometre car expense payments will now apply for up to 5,000 business kilometres at:
 - 66 cents per kilometre for the year commencing on 1 July 2015, or
 - the rate published by the Commissioner of Taxation for later years.
9. Where the allowance for car expenses is no more than the published rate then no withholding will be required for payments up to 5,000 kilometres for a financial year. Withholding will be required from payments for distances travelled beyond 5,000 kilometres in a financial year.
10. If the per kilometre rate paid exceeds the published rate withholding will be required from the amount of each payment which exceeds the amount calculated at the published rate.
11. An assessment of the compliance cost impact indicates that the impact will be minor for both implementation and on-going compliance costs. The new instrument is of a minor or machinery nature.

Background

12. The variation was originally created to lessen reporting burdens on employers for allowance payments that were deductible and expected to be fully expended and to allow employees to receive such allowances without unnecessary withholding.
13. In the absence of this variation, employees would be subject to unnecessary withholding on allowances which will be fully expended.

Consultation

14. This instrument is required to support ATO policy regarding reporting of deductible expenses. The change which has been made is to conform with announced law changes which, if passed, will take effect from 1 July 2015.
15. No further consultation has been conducted as the effect of the instrument is to support current practices.

Steve Vesperman
Deputy Commissioner of Taxation
Date 17 June 2015

Legislative references:

Income Tax Assessment Act 1997

Taxation Administration Act 1953

Legislative Instruments Act 2003

Human Rights (Parliamentary Scrutiny) Act 2011

Statement of Compatibility with Human Rights

This Statement is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

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This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview

This Legislative Instrument varies to nil the amount to withhold from the following allowance payments:

- cents per kilometre car expense payments
- award transport payments for deductible transport expenses
- laundry (not dry cleaning) allowance for deductible clothing up to the threshold amount
- award overtime meal allowances up to reasonable allowances amount
- domestic or overseas travel allowance.

Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms because the new instrument is of a minor or machinery nature.

Conclusion

This legislative instrument does not raise any human rights issues.