

Variation 45 - Explanatory statement -



Legislative Instrument

PAYG Withholding Variation: Donations to deductible gift recipients

Explanatory Statement

General Outline of Instrument

1. This variation is made by the Commissioner of Taxation (the Commissioner) under section 15-15 of Schedule 1 to the *Taxation Administration Act 1953*.
2. This instrument enables a variation to the rate of withholding required by a payer under the pay as you go withholding system for payments in a certain class of cases.
3. This is a legislative instrument for the purposes of the *Legislation Act 2003*.
4. This legislative instrument repeals and replaces Legislative Instrument No. F2006B00300 registered on the 10th of February 2006.

Date of effect

5. The instrument applies from 1 April 2016 and will be withdrawn on 31 October 2016.

What is this instrument about?

6. Legislative Instrument No. F2006B00300 provided a variation that reduced the amount used to calculate withholding if the payer had made a payment to a deductible gift recipient on behalf of the payee.
7. This instrument is due for repeal on 1 April 2016, under the sunset provisions contained in section 50 of the *Legislation Act 2003*. This instrument replaces that instrument from that date.
8. We are currently consulting with industry bodies about the continuation of the withholding rules set down in that instrument. To enable that consultation to be completed through a proper process, we have used this new instrument to extend the provisions of the current instrument for a further seven months.

What is the effect of this Instrument?

9. The variation continues to allow a payer to reduce a withholding payment by the amount they pay to a deductible gift recipient on a payee's behalf.
10. 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

11. The variation was originally created to provide a reduction in withholding when payers make donations at the direction of payees under a regular planned workplace arrangement.
12. This instrument extends that treatment for a further seven months to enable consultation with industry groups to be completed before we determine what rules should be put in place for the longer term.
13. Due to complications with the consultation process the Office of Best Practice Regulation may not have had time to confirm that a Regulation Impact Statement is not required. Delaying the registration of this Legislative Instrument could lead to the situation where there is not an instrument in force and affected taxpayers would face increased reporting or withholding obligations. To avoid this situation the Commissioner will be registering this Legislative Instrument as an interim measure. This will allow for the continuation of the status quo while the Commissioner finalises consultation and is able to address all stakeholder concerns before reregistering a replacement Legislative Instrument by 31 October 2016.

Consultation

14. Consultation is currently occurring; when complete a new instrument will be made reflecting the requirements of affected industry participants.

Steve Vesperman
Deputy Commissioner of Taxation
Date 29 March 2016

Legislative references:

Taxation Administration Act 1953

Legislation 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 continues to allow a payer to reduce a withholding payment by the amount they pay to a deductible gift recipient on a payee's behalf.

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.