



---

## Explanatory Statement

# Taxation Administration (Single Touch Payroll Reporting Exemption for Withholding Payer Number Holders) Instrument 2023

---

### General outline of instrument

1. This instrument is made under subsection 389-10(1) in Schedule 1 to the *Taxation Administration Act 1953* (TAA).
2. This instrument exempts entities that do not have an Australian business number (ABN) but instead have a Withholding payer number (WPN) from Single Touch Payroll (STP) reporting.
3. The instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.
4. Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws) the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

### Date of effect

5. This instrument commences on 1 July 2023.

### Effect of this instrument

6. This instrument provides an exemption from STP reporting to any entity that:
  - (a) would otherwise be required to notify the Commissioner of an amount referred to in column 1 of the table in subsection 389-5(1) in Schedule 1 to the TAA
  - (b) does not have an ABN, and
  - (c) has been assigned a WPN by the Australian Taxation Office (ATO) for the purposes of pay as you go (PAYG) withholding.
7. Entities within this class will be exempt from the requirement to report under section 389-5 in Schedule 1 to the TAA.
8. The effect of this instrument is to renew the existing exemption provided for by the *Taxation Administration – Single Touch Payroll – 2021-22 and 2022-23 years Withholding Payer Number Exemption 2021* (F2022L00016). That existing exemption is due to end on 30 June 2023. Under this instrument, this exemption will be extended to ensure entities within the class are not required to report until after 30 June 2033, at which point a further extension of the exemption may be considered.
9. Any entity covered by this exemption may still choose to report under STP in accordance with Division 389 in Schedule 1 of the TAA, notwithstanding the exemption provided by this instrument.

## **Compliance cost assessment**

10. Compliance cost impact: Minor – There will be no additional impacts as the instrument is minor and machinery in nature OIA23-04854.

## **Background**

11. Some employers are required to participate in the PAYG withholding system but are not entitled to hold an ABN. Typical examples of these types of entities are:

- (a) individuals who engage staff in a domestic capacity, such as nannies, cleaners or gardeners, and
- (b) individuals who engage support workers under a National Disability Insurance Scheme (NDIS) self-managed care plan.

12. As these employers are not entitled to an ABN, the ATO assigns them a WPN as an identifier at the time they register for PAYG withholding.

13. STP reporting is required by employers under section 389-5 in Schedule 1 of the TAA in respect of certain amounts. The law applies this obligation to employers regardless of whether they are an ABN or WPN holder.

14. STP reporting works by sending tax and super information digitally from an STP-enabled payroll or accounting software solution to the ATO.

15. To lodge through STP, an employer needs to obtain and manage digital credentials that allow them to interact with the ATO through authenticated channels, or engage support from a registered agent. Using these options may result in prohibitive costs for some categories of WPN holders, such as individuals who engage support workers under an NDIS self-managed care plan, due to the frequency with which STP reporting is required.

16. Subsection 389-10(1) in Schedule 1 to the TAA allows the Commissioner of Taxation to exempt, by way of legislative instrument, a class of entities from reporting under STP.

17. The exemption provided by this instrument will provide greater flexibility to WPN holders by allowing them to choose whether they:

- (a) adopt STP reporting by engaging a registered agent to lodge on their behalf, or
- (b) continue to use their existing non-STP reporting channel.

## **Consultation**

18. Subsection 17(1) of the *Legislation Act 2003* requires the Commissioner to be satisfied that appropriate and reasonably practicable consultation has been undertaken before they make a legislative instrument.

19. Broad public consultation was undertaken on this instrument from 27 March 2023 to 21 April 2023. The draft instrument and draft explanatory statement were published to the ATO Legal database. Publication was advertised via the 'What's new' page on that website, and via the 'Open Consultation' page on [ato.gov.au](http://ato.gov.au). Major tax and superannuation publishers and associations monitor these pages and include the details in the daily and weekly alerts and newsletters to their subscribers and members. No submissions or comments were received during public consultation.

## **Legislative references**

*Acts Interpretation Act 1901*

*Human Rights (Parliamentary Scrutiny) Act 2011*

*Income Tax Assessment Act 1997*  
*Legislation Act 2003*  
*Taxation Administration Act 1953*

## **Statement of compatibility with Human Rights**

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

### ***Taxation Administration (Single Touch Payroll Reporting Exemption for Withholding Payer Number Holders) Instrument 2023***

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 of the legislative instrument**

This instrument provides an exemption to entities that have a Withholding Payer Number (WPN) from reporting under Single Touch Payroll (STP) legislative framework.

#### **Human rights implications**

This legislative instrument does not engage any of the applicable rights or freedoms. It only provides certain entities with an exemption from a reporting requirement and is of a minor or machinery nature.

#### **Conclusion**

This legislative instrument is compatible with human rights as it does not raise any human rights issues.