



Explanatory Statement

Taxation Administration (Withholding Variation for Payment of Certain Allowances) Legislative Instrument 2025

General Outline of Instrument

1. This instrument is made under section 15-15 of Schedule 1 to the *Taxation Administration Act 1953* (the Act).
2. This instrument reduces the amount required to be withheld by a payer under the pay as you go (PAYG) withholding system from payments of certain allowances to nil in certain circumstances.
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 the day after it is registered on the Federal Register of Legislation.
6. This instrument repeals and replaces the legislative instrument *Taxation Administration Act 1953 – Pay as you go withholding - PAYG Withholding Variation: Allowances – Legislative Instrument* (the 2015 instrument), which would otherwise sunset on 1 October 2025. This instrument has the same effect as the 2015 instrument.

Background

7. Under section 15-15 of Schedule 1 to the Act, the Commissioner may vary the amount required to be withheld by an entity (through a written notice) or classes of entity (by legislative instrument) from a withholding payment.
8. Without a variation under this section, a payer would be required to withhold from the payment of certain allowances to payees in accordance with withholding schedules made under section 15-25 of Schedule 1 to the Act. This includes withholding from allowance payments where the payee is expected to claim a deduction for the full amount of the allowance. This requirement to withhold from the payment of these allowances would impose a compliance burden on the payer to withhold and prevent the payee from receiving the full amount of the allowance due to the withholding.

Effect of this instrument

9. This instrument reduces the amount a payer must withhold from payments of specified allowances to nil in certain circumstances.

10. Under section 6, withholding is varied to nil where the payer:
- (a) makes a payment that relates to an allowance that is specified in section 7;
 - (b) reasonably expects that the payee will incur deductible work expenses related to the allowance that in total are no less than the amount of the allowance; and
 - (c) records the amount and nature of the payment separately in their accounting records.
11. Section 7 specifies the allowances to which a variation in section 6 applies.
12. Section 7 also specifies any limits on the amount of the payment that can be varied to nil. Where the payment exceeds an allowance limit in section 7, the variation only applies up to that limit. Normal withholding rates will apply to any part of the paid allowance that exceeds the limit.

Allowances specified in section 7

13. Section 7 specifies the following allowances and limits.

Car expenses

14. Car expenses are defined in section 28-13 of the *Income Tax Assessment Act 1997* (ITAA 1997). A deduction for car expenses can be calculated by various methods, including the cents per kilometre method in section 28-25 of the ITAA 1997.
15. Withholding from a payment that relates to a car expense allowance may be reduced to nil for payments that do not exceed the limit calculated under section 7(a). Normal withholding rates will apply to any part of the payment that exceed this limit.

Laundry expenses

16. Laundry expenses are defined in section 900-40 of the ITAA 1997 and relate to washing, drying or ironing clothes but do not include expenses for dry cleaning.
17. Withholding from a payment that relates to an allowance for laundry expenses is varied to nil for payments that do not exceed the amount that can be deducted without substantiation under section 900-40 of the ITAA 1997.
18. Under section 900-40 of the ITAA 1997, deductions for laundry expenses up to \$150 do not require written evidence. The withholding variation applies where the total amount paid during a financial year that relates to this allowance does not exceed this amount. Normal withholding rates will apply to any payments after the \$150 limit is reached.

Domestic and overseas travel allowance expenses

19. Travel allowance expenses are defined in section 900-30 of the ITAA 1997 and are amounts paid to employees to cover certain expenses incurred when travelling for work. This instrument applies to domestic and overseas travel allowance expenses, but not overseas accommodation allowance expenses.
20. Withholding from a payment that relates to these travel allowance expenses is varied to nil for amounts that do not exceed the amount the Commissioner considers reasonable for the income year.
21. The amount the Commissioner considers reasonable for the purposes of section 900-50 of the ITAA 1997 (for domestic travel allowance) and section 900-55 of the ITAA 1997 (for overseas travel allowance) is published annually on ato.gov.au.

Overtime meal allowance expenses

22. Under section 900-60 of the ITAA 1997, overtime meal allowance expenses are paid under an industrial instrument to enable a payee to buy food and drink in connection with overtime that they work.

23. Withholding from a payment that relates to an overtime meal allowance expense is varied to nil for amounts that do not exceed the amount the Commissioner considers reasonable. The amount the Commissioner considers reasonable for an income year is published annually on ato.gov.au.

Award transport payment

24. An award transport payment is defined in section 900-220 of the ITAA 1997. These are payments made for the purpose of covering transport expenses in relation to particular travel and paid under an industrial instrument that was in force on 29 October 1986.

Compliance cost assessment

25. To be advised.

Consultation

26. Subsection 17(1) of the *Legislation Act 2003* requires that the Commissioner be satisfied that appropriate and reasonably practicable consultation has been undertaken.

27. As part of the consultation process, you are invited to comment on the draft instrument and its accompanying draft explanatory statement.

Please forward your comments to the contact officer by the due date.

Due date:	23 July 2025
Contact officer:	Joanna Yiu
E-mail address:	joanna.yiu@ato.gov.au
Telephone:	(03) 9275 4717

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 of the Legislative Instrument

This legislative instrument reduces the amount that a payer must withhold from certain allowances payments to nil in certain circumstances. This reduces the compliance burden on payers by removing the requirement to withhold from those allowance payments where the payee is expected to claim a deduction for the full amount of the allowance.

Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms. It merely varies withholding to nil for payments of specified allowances in certain circumstances.

Conclusion

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