



Explanatory Statement

Taxation Administration – Single Touch Payroll – Exemption for Employers Having a Seasonal Workforce

General Outline of Instrument

1. This instrument is made under subsection 389-10(1) of Schedule 1 to the *Taxation Administration Act 1953*.
2. This instrument exempts employers from reporting under Single Touch Payroll if they have 20 or more employees on 1 April in any year, but:
 - (a) They had fewer than 20 employees for 10 of the preceding 12 months, and
 - (b) They reasonably expect to have fewer than 20 employees for 10 of the following 12 months.
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. The instrument commences on the day after its registration on the Federal Register of Legislation.

What is this instrument about

6. Division 389 of Schedule 1 to the *Taxation Administration Act 1953* establishes Single Touch Payroll reporting. That Division provides for the reporting of employee payroll and superannuation information by an entity that is deemed to be a substantial employer on 1 April 2018 or any subsequent 1 April (whether or not the entity is currently a substantial employer). This reporting obligation applies initially from 1 July 2018.
7. Subsection 389-5(6) provides that an entity is a substantial employer at a particular time if, on the most recent 1 April occurring before that time:
 - (a) 20 or more individuals were employees of the entity; or

- (b) if the entity was a member of a *wholly-owned group on that 1 April, the total number of employees of all of the members of the group was 20 or more.
- 8. It is recognised that for some employers, the number of individuals employed on 1 April may be higher than is the case for the majority of the year. That may be due to seasonal or other industry specific factors. For example, an orchard may employ a large number of pickers in March and April but very few staff for the remainder of the year.
- 9. Subsection 389-5(1) allows the Commissioner of Taxation to exempt a class of entities from reporting under Single Touch Payroll by legislative instrument.
- 10. This instrument exempts an entity that has, or reasonably expects to have, fewer than 20 employees for 10 months of each of the relevant years from reporting under Single Touch Payroll.
- 11. Employees for the purpose of the headcount can include full-time, part-time and casual employees.

What is the effect of this instrument

- 12. An entity with circumstances that meet the test specified in the instrument is exempted from reporting under Single Touch Payroll.
- 13. However, an entity with circumstances that meet the test specified in the instrument may still choose voluntarily to report under Single Touch Payroll in accordance with section 389-15 notwithstanding their exemption.
- 14. 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.

Consultation

- 15. The rules specified in this instrument have been developed in consultation with payroll software developers and bodies representing payroll users.

Legislative references:

Acts Interpretation Act 1901

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*.

Taxation Administration - Single Touch Payroll – Exemption for Employers Having a Seasonal Workforce

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

The instrument provides an exemption for employers with a seasonal workforce from mandatory reporting through Single Touch Payroll reporting.

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. The exemption gives these employers the freedom to choose whether they report through Single Touch Payroll.

Conclusion

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