



Taxation Administration (Withholding Variation for Certain Payments Made by External Administrators and Trustees of Bankrupts' Estates) Legislative Instrument 2025

I, Ben Kelly, Deputy Commissioner of Taxation, make the following legislative instrument.

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Ben Kelly **DRAFT ONLY—NOT FOR SIGNATURE**
Deputy Commissioner of Taxation

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1 Name

This instrument is the *Taxation Administration (Withholding Variation for Certain Payments Made by External Administrators and Trustees of Bankrupts' Estates) Legislative Instrument 2025*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 July 2025.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under section 15-15 in Schedule 1 to the Act.

4 Definitions

Note: A number of expressions used in this instrument have the same meaning as in Schedule 1 to the Act. Expressions in Schedule 1 to the Act have the same meaning as in the *Income Tax Assessment Act 1997* (see section 3AA of the Act). The following expressions are relevantly defined in section 995-1 of the *Income Tax Assessment Act 1997*:

- (a) genuine redundancy payment;
- (b) unused annual leave payment;
- (c) unused long service leave payment;
- (d) withholding payment.

In this instrument:

Act means the *Taxation Administration Act 1953*.

bankrupt has the meaning given by section 5 of the *Bankruptcy Act 1966*.

external administrator has the meaning given by section 5-20 of Schedule 2 to the *Corporations Act 2001*, and it also includes a receiver, and a receiver and manager as defined in that Act.

payment in lieu of notice has the meaning given by Subdivision A of Division 11 of the *Fair Work Act 2009*.

5 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

6 Withholding Variation

- (1) The amount that an external administrator or a trustee of the estate of a bankrupt must withhold from a withholding payment made under sections 12-35, 12-85 and 12-90 of Schedule 1 to the Act is varied to 32 per cent of that payment, where:
 - (a) the payment accrued before the day on which the external administrator or trustee was appointed; and
 - (b) the payment was:
 - (i) back payment of wages, including for unpaid amounts of leave already taken, or for underpayment of wages over any period;
 - (ii) an unused annual leave payment;
 - (iii) an unused long service leave payment;
 - (iv) a payment in lieu of notice; or
 - (v) a genuine redundancy payment.
- (2) An external administrator or a trustee of the estate of a bankrupt is not required to withhold from any amounts that fall within the tax-free component of a genuine redundancy payment.

Schedule 1—Repeals

PAYG Withholding Variation: Variation of amount to be withheld from certain payments made by external administrators and trustees of bankrupt estates

1 The whole of the instrument

Repeal the instrument

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