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## Legislative Instrument

# PAYG Withholding variation for foreign resident capital gains withholding payments – marriage or relationship breakdowns

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I, Matthew Bambrick, Acting Deputy Commissioner of Taxation, make this variation under subsection 14-235(5) of Schedule 1 to the *Taxation Administration Act 1953*.

Acting Deputy Commissioner of Taxation  
Dated: 5 October 2016

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### 1. Name of instrument

This determination is the *PAYG Withholding variation for foreign resident capital gains withholding payments – marriage or relationship breakdowns*.

### 2. Commencement

This instrument commences on the day after its registration on the Federal Register of Legislative Instruments

### 3. Application

This instrument applies to payments covered by section 14-200 of Schedule 1 to the *Taxation Administration Act 1953*, where

- (i) under the *Family Law Act 1975* or under a State law, Territory law or foreign law relating to breakdowns of relationships between spouses, the transferee acquires ownership of an asset; and
- (ii) the transferee possesses a copy of the relevant documentation specified in subsection 126-5(1) of the ITAA 1997 by the time of the finalisation of the transfer, showing that the asset was acquired in accordance with subparagraph 3(i).

### 4. Determination

The amount to be paid to the Commissioner in relation to transactions covered by this instrument is varied to nil.

### 5. Definitions

- Spouse - as defined within subsection 995-1(1) of the Income Tax Assessment Act 1997
- Transferor – the person or entity named in the relevant documentation specified in subsection 126-5(1) of the ITAA 1997, under which the *Family Law Act 1975*, State law, Territory law or foreign law relating to breakdowns of relationships between spouses, is requiring them to transfer an asset to another individual (transferee).

- Transferee – the individual who is named in the relevant documentation specified in subsection 126-5(1) of the ITAA 1997 as being in receipt of the ownership of the asset transferred under the *Family Law Act 1975* or under a State law, Territory law or foreign law relating to breakdowns of relationships between spouses.

Other terms used in this legislative instrument have the same meaning as defined in the:

- *Income Tax Assessment Act 1997*, or
- *Taxation Administration Act 1953*