

Tax table for employment termination payments

Including delayed termination payments

❗ **FOR PAYMENTS MADE ON OR AFTER
1 JULY 2013**

➔ For a full list of tax tables, visit our website at ato.gov.au/taxtables

WHO SHOULD USE THIS TABLE?

You should use this table if you pay an individual an amount that is either:

- an employment termination payment (ETP)
- a delayed termination payment – that is, a payment that would be an ETP except it was paid more than 12 months after the relevant termination of employment (for more information, see 'Delayed termination payments' on page 7).

❗ This document is a withholding schedule made by the Commissioner of Taxation in accordance with sections 15-25 and 15-30 of schedule 1 to the *Taxation Administration Act 1953*. It applies to withholding payments covered by paragraph 12-85 (b) of schedule 1.

➔ For more information about changes to ETP's, visit our website at ato.gov.au/leavingwork



EMPLOYMENT TERMINATION PAYMENTS

An ETP is a lump sum payment paid either:

- to an individual when their employment is terminated
- after the death of an employee.

ETPs include lump sum payments paid upon resignation, retirement or death. A payment from a super fund is not an ETP.

A payment must generally be made within 12 months of termination to qualify as an ETP. A payment made outside 12 months is a delayed termination payment, unless we have given approval for the payment to be treated as an ETP.

TAX TREATMENT OF ETPTS

On 1 July 2012, the concessional tax treatment for ETPTS changed. Depending on the type of ETP, the concessional tax treatment is limited to the smaller of the ETP cap and the whole-of-income cap. Amounts paid in excess of these caps are taxed at the highest marginal rate (plus Medicare levy).

The ETP cap amount for the 2013–14 income year is \$180,000. This amount is indexed annually.

The whole-of-income cap amount for the 2013–14 income year is \$180,000. This amount is not indexed. This cap is reduced by the other taxable payments that your employee receives in the income year. For example, salary or wages that you have paid to your employee.

! In some cases, you may need to include an ETP in the taxable payments when working out the whole-of-income cap. For more information, visit our website at ato.gov.au/leavingwork

The ETP payment summary has an ETP code that you use to describe the type of ETP and which cap has been applied to it. For more information about the codes, see 'Payment summaries' on page 5.

ETP CAPS

The following table lists the types of ETPs subject to withholding and the applicable cap for each type of payment:

Column 1 ETP cap only applies to:	Column 2 Smaller of the ETP cap and whole-of-income cap applies to:
a payment made under an early retirement scheme that exceeds the tax-free limit* (only the amount in excess of the limit is an ETP).	a 'golden handshake' whether paid under <ul style="list-style-type: none"> ■ contract ■ industrial award obligation ■ recognition of prior service.
a genuine redundancy payment that exceeds the tax-free limit* (only the amount in excess of the limit is an ETP).	a non-genuine redundancy payment.
a payment made because of the employee's permanent disability.	severance pay.
compensation payment for personal injury.	a gratuity.
compensation for unfair dismissal.	a payment in lieu of notice.
compensation for harassment.	a payment for unused sick leave.
compensation for discrimination.	a payment for unused rostered days off.
lump sum payments paid on the death of an employee.	an ETP not covered in column 1.

* The tax-free limit for the 2013–14 income year is \$9,246 plus \$4,624 for each year of completed service.

! For payments in column 2, both caps apply so withhold at the highest marginal tax rate (plus Medicare levy) on the amount over the smallest cap. For more information, see 'How to work out the withholding amount' on page 3.

Steps to work out smallest cap

Follow these steps to work out the smaller of the ETP cap and whole-of-income cap:

Step	Action
1	Add up all taxable payments you made to your employee (excluding the ETP). In some cases, you may need to include an ETP in the taxable payments when working out the whole-of-income cap. See 'Example 4' on page 5.
2	Subtract the step 1 result amount from \$180,000.
3	The result from step 2 is the calculated whole-of-income cap.
4	Compare the calculated whole-of-income cap from step 3 and the ETP cap amount of \$180,000 for 2013–14.
5	If both caps are equal, use the whole-of-income cap. The smallest of the two caps at step 4, is the cap to apply to the ETP taxable component.

MULTIPLE PAYMENTS FOR SAME TERMINATION

For various reasons, ETPs may be made in more than one instalment. Payments made after the initial payment that are subject to the ETP cap, will be subject to a lower ETP cap because the cap amount is reduced by the amount of all previous payments for the same termination.

❗ Lump sum payments that are not ETPs may also be subject to PAYG withholding. Use the applicable tax table to work out the amount to be withheld from these payments. For unused annual leave, leave loading or long service leave payments, refer to *Tax table for unused leave payments on termination of employment* (NAT 3351).

❗ Do not allow for any tax offsets or Medicare levy adjustments.

Do not withhold any amount for:

- Higher Education Loan Program (HELP) debts
- Financial Supplement (FS) debts.

HOW TO WORK OUT THE WITHHOLDING AMOUNT

An ETP can be made up of a tax-free component and taxable component. You must withhold an amount from the taxable component, including death benefit ETPs.

❗ Do not withhold from the tax-free component of the ETP.

➔ For more information about ETP components, visit our website at ato.gov.au/leavingwork

When a TFN is provided

If your employee who is receiving an ETP has given you their tax file number (TFN), use table A on page 6 to work out how much to withhold.

You should have received most employees TFN's while they were working for you. This declaration remains effective until 12 months after you make the last payment to them.

❗ Withholding amounts calculated by applying table A on page 6 must be rounded to the nearest dollar. Results ending in 50 cents are rounded upwards.

When a TFN is not provided

You must withhold 46.5% from the taxable component of an ETP you make to a resident employee and 45% from a foreign resident employee (ignoring any cents) who has not given you their TFN.

The examples on this page and following will help you work out how much to withhold.

EXAMPLE 1

ETP cap

Lloyd is an employee of BigBiz Pty Ltd and is 41 years old. His preservation age is 60 years old. He is made redundant from his position at BigBiz and receives an ETP of \$45,000.

The ETP has no tax-free component.

BigBiz is required to withhold from the ETP. Lloyd has previously provided his TFN to BigBiz and claimed the tax-free threshold.

BigBiz classifies the payment as a genuine redundancy and using table A on page 6, works out that only the ETP cap applies.

As Lloyd is under preservation age and his entire ETP fits within the ETP cap amount, BigBiz withholds \$14,175 from Lloyd's ETP. This is 31.5% of Lloyd's taxable component of \$45,000.

EXAMPLE 2

Whole-of-income cap – payment less than cap

Jane is an employee of SmallBiz Pty Ltd and is 53 years old. Jane’s preservation age is 55 years old (see ‘Preservation age’ on page 6). Jane resigns from SmallBiz to start a new business.

Up until Jane’s date of resignation, SmallBiz paid Jane salary and wages totalling \$84,000. Under her employment contract, Jane will receive a ‘golden handshake’ of \$10,000 from SmallBiz. This payment is an ETP and has a tax-free component of \$2,000 (relating to service before July 1983) and a taxable component of \$8,000. SmallBiz is required to withhold an amount under the PAYG withholding system. Jane had previously provided her TFN to SmallBiz.

SmallBiz does not withhold from the tax-free component of \$2,000, but must withhold an amount from the taxable component of \$8,000.

SmallBiz classifies the payment as a ‘golden handshake’. Using table A on page 6 and the following steps, SmallBiz works out which cap to apply and the withholding rate:

Step	SmallBiz action	Result
1	Adds up all taxable payments (excluding the ETP) paid to Jane.	\$84,000
2	Subtracts the step 1 amount from \$180,000. This is the calculated whole-of-income cap.	\$96,000
3	Determines the smallest cap by comparing result from step 2 against ETP cap amount of \$180,000.	Whole-of-income cap is smallest
4	Uses table A to determine withholding rate on amounts up to calculated whole-of-income cap of \$96,000 remembering Jane is under preservation age.	31.5%
5	Uses table A to determine withholding rate on amounts above the whole-of-income cap of \$96,000. As whole \$8,000 ETP is under cap, the rate is nil.	Nil

SmallBiz withholds \$2,520 from Jane’s ETP of \$10,000. This is 31.5% (30% plus Medicare levy) of Jane’s taxable component of \$8,000.

EXAMPLE 3

Whole-of-income cap – payment greater than cap

Chris, aged under preservation age, has his employment terminated by MediumBiz in January. His employment termination does not meet the criteria of a genuine redundancy.

MediumBiz paid Chris \$50,000 in leave entitlements as a lump sum and \$50,000 in salary and wages before his termination. In addition to this income, Chris is also paid \$120,000 as an ETP comprising of \$100,000 taxable component and has a tax-free component of \$20,000 (relating to service before July 1983).

As the ETP is not a genuine redundancy, MediumBiz classifies the payment as a ‘golden handshake’. Using table A on page 6 and the following steps, MediumBiz works out which cap to apply and the withholding rate:

Step	MediumBiz action	Result
1	Adds up all taxable payments (excluding the ETP) paid to Chris.	\$100,000
2	Subtracts the step 1 amount from \$180,000. This is the calculated whole-of-income cap.	\$80,000
3	Determines smallest cap by comparing result from step 2 against ETP cap amount of \$180,000.	Whole-of-income cap is smallest
4	Uses table A to determine withholding rate on amounts up to calculated whole-of-income cap of \$80,000 remembering Chris is under preservation age.	31.5%
5	Uses table A to determine withholding rate on amounts over the calculated whole-of-income cap of \$80,000. ETP \$100,000 less cap amount \$80,000, gives \$20,000 over the cap.	46.5%

MediumBiz withholds \$34,500 from Chris’s ETP of \$120,000. This is \$25,200 (\$80,000 x 31.5%) plus \$9,300 (\$20,000 x 46.5%) of Chris’s taxable component of \$100,000.

EXAMPLE 4

ETP subject to both ETP cap and whole-of-income cap

Alec, aged 30 years old, is made redundant by MacroBiz after 5 years service and receives a termination payment of \$65,678 on 1st June that is part genuine redundancy (\$40,678) and part gratuity (\$25,000). Until his redundancy, Alec had received \$140,000 in salary and wages for the income year.

In this situation the part of the payment that is subject to the ETP cap only is always dealt with first.

Alec's employer calculates the genuine redundancy amount over the tax-free limit* as \$8,312. This is an ETP and, using table A on page 6, works out that only the ETP cap applies. Alec is under preservation age, so MacroBiz withholds \$2,618 (31.5% of \$8,312).

Using table A and the following steps, MacroBiz then works out which cap to apply and the withholding rate on Alec's \$25,000 gratuity part of the ETP.

Step	MediumBiz action	Result
1	Adds up all taxable payments, salary and wages plus the genuine redundancy amount over the tax-free limit (but excluding the gratuity) paid to Alec.	\$148,312
2	Subtracts the step 1 amount from \$180,000. This is the calculated whole-of-income cap.	\$31,688
3	Determines smallest cap by comparing result from step 2 against ETP cap of \$171,688 (ETP cap \$180,000 for 2013–14 less the \$8,312 ETP).	Whole-of-income cap is smallest
4	Uses table A to determine withholding rate on amounts up to calculated whole-of-income cap of \$31,688 remembering Alec is under preservation age.	31.5%
5	Uses table A to determine withholding rate on amounts over the calculated whole-of-income cap of \$31,688. As the \$25,000 gratuity is under the cap, rate is nil.	Nil

MacroBiz withholds \$2,618 from the \$8,312 part of the ETP for genuine redundancy and \$7,875 from the \$25,000 gratuity part of the ETP. MacroBiz must issue Alec with two separate ETP payment summaries covering each part of the payment.

* For more information about calculating the tax-free portion of a genuine redundancy payment, visit our website at ato.gov.au/leavingwork

PAYMENT SUMMARIES

You must provide your employee with one or more *PAYG payment summary – employment termination payment* (NAT 70868) within 14 days of making an ETP. The payment summary now includes an ETP code that you use to describe the type of payment and determines which cap, ETP cap or whole-of-income cap, is applied. Below is a table showing the type of ETPs and which code applies:

Life benefit ETP

Code	Description
R	ETP because of: <ul style="list-style-type: none"> ■ early retirement scheme ■ genuine redundancy ■ invalidity or ■ compensation for <ul style="list-style-type: none"> – personal injury – unfair dismissal – harassment – discrimination
O	Other ETP not described by R , for example, golden handshake, gratuity, payment in lieu of notice, payment for unused sick leave, payment for unused rostered days off

Multiple payments for same termination

Code	Description
S	This is a code R payment and you made one of the following payments to your employee in a previous income year for the same termination : <ul style="list-style-type: none"> ■ a code R payment ■ a code O payment ■ a transitional termination payment.*
P	This is a code O payment and you made one of the following payments to your employee in a previous income year for the same termination : <ul style="list-style-type: none"> ■ a code R payment ■ a code O payment ■ a transitional termination payment.*

Death benefit ETP

Code	Description
D	Death benefit ETP paid to a dependant of the deceased
B	Death benefit ETP paid to a non-dependant of the deceased and you made a termination payment to the non-dependant in a previous income year for the same termination
N	Death benefit ETP paid to a non-dependant of the deceased
T	Death benefit ETP paid to a trustee of the deceased estate

* Transitional termination payments were certain ETPs paid to an employee under an employment contract entered into before 10 May 2006. They were taxed concessionaly if paid before 1 July 2012. For more information about transitional ETPs, visit our website at ato.gov.au and search for 'Transitional termination payment'.

➤ For more information about payment summaries, visit our website at ato.gov.au/paymentsummaries

Payment summaries can also be printed using our approved software. For more details and specifications of the approved software, visit our website at ato.gov.au/softwaredevelopers

PRESERVATION AGE

Preservation age is determined using your employee's date of birth. The preservation table below shows the preservation age based on date of birth:

Date of birth	Preservation age
Before 1/7/1960	55
1/7/1960 – 30/6/1961	56
1/7/1961 – 30/6/1962	57
1/7/1962 – 30/6/1963	58
1/7/1963 – 30/6/1964	59
After 30/6/1964	60

TABLE A: Withholding rates for ETPs

Income component derived by your employee in the income year	Age of person at the end of the income year that the payment is received	Component subject to PAYG withholding	Rate of withholding (including Medicare levy)	Cap to apply
Life benefit ETP – taxable component Payment is because of: <ul style="list-style-type: none"> ■ early retirement scheme ■ genuine redundancy ■ invalidity ■ compensation for personal injury, unfair dismissal, harassment or discrimination. 	Under preservation age	Up to the ETP cap amount ¹	31.5%	ETP cap
	Preservation age or over	Up to the ETP cap amount ¹	16.5%	ETP cap
	All ages	Amount above the ETP cap amount ¹	46.5%	ETP cap
Life benefit ETP – taxable component Payment is: <ul style="list-style-type: none"> ■ a 'golden handshake' ■ non-genuine redundancy payment ■ severance pay ■ a gratuity ■ in lieu of notice ■ for unused sick leave ■ for unused rostered days off. 	Under preservation age	Up to the relevant cap amount	31.5%	Smallest of ETP cap and whole-of-income cap ²
	Preservation age or over	Up to the relevant cap amount	16.5%	Smallest of ETP cap and whole-of-income cap ²
	All ages	Amount above the relevant cap amount	46.5%	Smallest of ETP cap and whole-of-income cap ²
Death benefit ETP paid to non-dependants – taxable component ³	All ages	Up to the ETP cap amount	31.5%	ETP cap
		Amount above the ETP cap amount	46.5%	ETP cap
Death benefit ETP paid to dependants – taxable component ³	All ages	Up to the ETP cap amount	Nil	ETP cap
		Amount above the ETP cap amount	46.5%	ETP cap

1 The ETP cap amount for the 2013–14 income year is \$180,000. The amount is indexed annually.

2 The whole-of-income cap amount for the 2013–14 income year and future years is \$180,000. This amount is not indexed.

3 A dependant includes both a child and spouse of the deceased. A child of the deceased includes all of the following:

- an adopted child, stepchild or ex-nuptial child
- a child of the deceased's spouse
- someone who is a child of the deceased within the meaning of the *Family Law Act 1975* (for example, a child who is considered to be a child of a person under a state or territory court order giving effect to a surrogacy agreement).

Spouse of the deceased includes another person (whether the same sex or opposite sex) and all of the following:

- with whom the deceased was in a relationship that was registered under a law of a prescribed state or territory law
- who lived with the deceased on a genuine domestic basis in a relationship as a couple.

A dependant includes:

- any person with whom the deceased had an interdependency relationship
- a person who was a dependant of the deceased just before the latter died. Before accepting that a person is financially dependent.

An interdependency relationship includes a close personal relationship between two people who live together, where one or both provides for the financial and domestic support and personal care of the other.

If an ETP will be paid to the trustee of a deceased estate, no amount should be withheld.

DELAYED TERMINATION PAYMENTS

Generally, a payment must be made within 12 months of termination to qualify as an ETP. A payment made outside 12 months is a delayed termination payment, unless we have given approval for the payment to be treated as an ETP.

When a TFN is provided

If your employee has given you their TFN, withhold an amount equal to **31.5%** from the payment. Withholding amounts calculated should be rounded to the nearest dollar. Results ending in 50 cents are rounded to the next higher dollar.

When a TFN is not provided

You must withhold 46.5% from the payment you make to a resident employee and 45% from a foreign resident employee (ignoring any cents) who has not given you their TFN.

➤ MORE INFORMATION

For more information about changes to ETP's, visit our website at ato.gov.au/leavingwork

Copies of weekly and fortnightly tax tables are available from selected newsagents. Selected newsagents also hold copies of the following:

- *Tax file number declaration* (NAT 3092)
- *Withholding declaration* (NAT 3093).

If you need more information about our PAYG withholding tax tables and other PAYG withholding publications, you can:

- visit our website at ato.gov.au/paygw
- phone us on **13 10 20** for ETP enquiries
- phone us on **13 28 66** for general PAYG enquiries
- phone our Publications Distribution Service on **1300 720 092** to order our forms or publications, or visit ato.gov.au/onlineordering

If you do not speak English well and need help from the ATO, phone the Translating and Interpreting Service on **13 14 50**.

If you are deaf, or have a hearing or speech impairment, phone us through the National Relay Service (NRS) on the numbers listed below:

- TTY users, phone **13 36 77** and ask for the ATO number you need
- Speak and Listen (speech-to-speech relay) users, phone **1300 555 727** and ask for the ATO number you need
- internet relay users, connect to the NRS on www.relayservice.com.au and ask for the ATO number you need.

If you would like further information about the NRS, phone **1800 555 660** or email helpdesk@relayservice.com.au

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