

THE 1984 TERMINATION PAYMENTS GUIDE - INCLUDING SCHEDULE L SUPERANNUATION, RETIREMENT OR SIMILAR AMOUNTS

The 1984 Form S Guide and A/B Instructions ask you to complete Schedule L if an amount marked 'B' is shown in column 4 of your Group Certificate or Tax Stamps Sheet. However, if the only termination payment you received during the year was unused annual leave and/or long service leave or leave bonus, then the return can be completed without the need to complete Schedule L. In this case, 5% of any amount marked 'B' on the Group Certificate or Tax Stamps Sheet should be shown at Item 8 on page 2 of the return form. You should also attach a note to your return indicating that, as the only termination payment received was for annual leave and/or long service leave, completion of Schedule L was not necessary.

The taxation law has been changed to provide new arrangements for the taxation of superannuation, termination of employment or similar payments, received on or after 1 July 1983. This Guide has been prepared to help persons who have received such payments (referred to in this Guide as 'eligible termination payments') to complete their 1983-84 income tax returns. If you have received a payment of the kind described under the heading 'WHAT IS AN ELIGIBLE TERMINATION PAYMENT?', you will need to complete a Schedule L and enclose it with your 1983-84 income tax return.

Where you have received more than one eligible termination payment during the 1983-84 income year, you should complete a Schedule L in respect of each payment. If you are in this situation and wish to keep a copy of each completed Schedule L, you may obtain another copy of this Guide from a Taxation Office or Post Office.

It is possible that you will not have in your possession all of the information needed to complete Schedule L. If this is the case, you should detach one of the PAYER'S STATEMENTS in this Guide and forward it to your former employer, superannuation fund or other organisation which made the payment with a request that they complete the Statement and return it to you. This Statement may then be used to help with the completion of Schedule L. Where Section F of the Statement (Concessional Component) has been completed by the payer, the Statement should be enclosed with Schedule L in your 1983-84 return. If Section F has not been completed, you do not need to include the Statement with your return.

If you have any doubts about the information being sought or any other aspect of the taxation treatment of the payment made to you, the full facts should be set out and attached to your return with the Schedule L. Alternatively, you may contact any Taxation Office to clarify the matter before you lodge your return.

WHAT IS AN ELIGIBLE TERMINATION PAYMENT?

An eligible termination payment is any one of the following kinds of payments:-

- Any payment made by an employer in consequence of the retirement or termination of employment of an employee other than any payments made in lieu of accrued annual leave, long service leave or leave bonuses. It includes any payments for unused sick leave, payments in compensation for loss of office or employment, termination payments paid under the terms of a contract of employment, 'golden handshakes' and other severance payments whether or not paid voluntarily by the employer.
- Any payment made by a superannuation fund other than periodic payments made in respect of a superannuation pension. This includes any distribution made from a superannuation fund, in accordance with fund rules, during an employee's service and payments resulting from a termination of employment whether paid in one lump sum or two or more instalments.
- Any payment made by an Approved Deposit Fund.
- Any payment made in respect of the commutation of all or part of a superannuation pension or an annuity, reduced by the amount of any unused undeducted purchase price. See further information under the heading 'Unused Undeducted Purchase Price'.
- Any payment of the residual capital value of a superannuation pension or an annuity, reduced by the amount of any unused undeducted purchase price.

An eligible termination payment does NOT include:-

- a payment by way of an advance or loan on terms which are commercially acceptable
- consideration of a capital nature for a legally enforceable contract in restraint of trade
- consideration of a capital nature for personal injury to the taxpayer.

DEATH BENEFITS

There are certain types of termination payments which, if paid to you because of the death of another person, are exempt from tax. These are payments made directly to you as the surviving spouse, former spouse, child and/or other dependants of the deceased person, by:

- an employer of the deceased person;
- a superannuation fund of which the deceased person was a member, (but not including a payment in respect of the commutation or residual capital value of a superannuation pension); or

- an Approved Deposit Fund of which the deceased person was a depositor.

If you have received a payment of this type, it will not be necessary to complete Schedule L. However, you should attach to your return a statement setting out the details of the payment and the circumstances in which you received it.

Payments in respect of the commutation or residual capital value of a superannuation pension or annuity are to be included in the assessable income of the person to whom the payment was made, regardless of whether or not that person is the original pensioner or annuitant.

Payments of any type of eligible termination payment made directly to the trustee of the estate of a deceased person are to be included in the assessable income of the estate. Where the payment is one of those described at (a), (b) or (c) under the heading 'What is an Eligible Termination Payment?' the amount to be included in assessable income may be reduced to the extent that the Commissioner of Taxation considers appropriate after taking account of the benefits the dependants of the deceased person are expected to receive from the estate. Further information may be obtained from a Taxation Office.

CONCESSIONAL COMPONENT

In particular circumstances, the new law provides for part of the eligible termination payment to be assessable only to the extent of 5%. One of these parts is known as the Concessional Component.

The concessional component is so much of the eligible termination payment as consists of a bona fide redundancy payment, an approved early retirement scheme payment or an invalidity payment. An explanation of these terms is given below.

If your employment was terminated in one of the circumstances outlined below, you should ask your former employer or superannuation fund to complete a 'Payer's Statement' and return it to you. In addition to using the Statement to help you complete Schedule L, you should enclose it with your return.

Bona fide redundancy payments

If, during the year of income, you were dismissed from any employment by reason of redundancy, and:

- the termination occurred before the earliest date on which you could normally have retired; and
- there was no agreement to re-employ you;

then the bona fide redundancy payment is the excess (if any) of the actual eligible termination payment received over the amount that you could have expected to receive had you voluntarily terminated your employment on the date of termination.

Approved early retirement scheme payments

An approved early retirement scheme is a scheme implemented by an employer with a view to rationalising or re-organising the operations of the employer, and approved by the Commissioner of Taxation.

If, during the year of income, your employment was terminated in accordance with an approved early retirement scheme and:

- the termination occurred before the earliest date on which you could normally have retired; and
- there was no agreement to re-employ you,

then the approved early retirement scheme payment is the excess (if any) of the actual eligible termination payment over the amount that you could have expected to receive had your employment terminated at the same date otherwise than in accordance with the approved early retirement scheme.

Invalidity payments

If, during the year of income, your employment was terminated by reason of your physical or mental incapacity to engage in that employment, and the termination occurred before the last date on which you would normally have had to leave that employment (or, if there is no such date, 65 years of age), then the invalidity payment is the proportion of the eligible termination payment that the uncompleted period of your employment bears to what would have been your total period of employment had you retired on your normal retirement date or, if there is no such date, 65 years of age.

ELIGIBLE SERVICE PERIOD

As a general rule, an eligible termination payment is to be apportioned according to the respective service periods up to and after 30 June 1983. That part of the payment which relates to service after 30 June 1983 will fall within the new taxation arrangements, while that

part of the payment which relates to service prior to 1 July 1983 will remain subject to the former rules (generally assessable only to the extent of 5%).

The length of the eligible service period will depend upon the type of eligible termination payment received.

Employer payments

If you have received an eligible termination payment from your employer, the eligible service period is the number of days from the date you commenced your employment to the date of termination of your employment. Where the period of service to which the payment relates has not been continuous, the eligible service period is the total of the periods of employment.

Superannuation fund payments

If you have received a payment from a superannuation fund of the type described at (b) under the heading 'What is an Eligible Termination Payment?', the eligible service period will depend upon the type of fund which made the payment.

If the payment has been made by a fund sponsored by your employer, the eligible service period is the number of days from the date you commenced the employment to which the superannuation payment relates, to the date the eligible termination payment was made or the date your fund membership ceased, if that is earlier. Where the period of employment to which the payment relates was not continuous, the number of days in your eligible service period does not include periods when you were not in that employment.

If the payment has been made by a non-employer sponsored fund, the eligible service period is the number of days from the date you joined the fund to the date the eligible termination payment was made.

If the payment from the superannuation fund has resulted partly from a transfer of entitlements from a previous fund, you should attach a statement showing full details of the transfer, including the period of employment and/or fund membership to which the transferred amount relates. In these circumstances it will be necessary for the Taxation Office to calculate and advise you of the amount to be included in your assessable income. In this situation you should complete Schedule L to the extent that you are able. An explanation of the calculation of the amount included will be provided on request.

Commutation or residual capital value of a pension

If you have received a payment from a superannuation fund in respect of the commutation, or residual capital value, of a superannuation pension, the eligible service period will depend upon the type of superannuation fund which made the payment.

If the payment has been made by an employer sponsored fund, the eligible service period is the number of days from the date your employment commenced to the date the eligible termination payment was made.

If the payment has been made by a non-employer sponsored fund, the eligible service period is the number of days from the date you joined the fund to the date the eligible termination payment was made.

Where you received a payment in respect of the commutation or residual capital value of a superannuation pension which had previously been payable to another person, for example, your deceased spouse, the commencement date of the eligible service period is the date the other person either commenced employment (if an employer sponsored fund) or joined the fund (in the case of a non-employer sponsored fund).

Commutation or residual capital value of an annuity

If you have received a payment in respect of the commutation, or residual capital value, of an annuity, the eligible service period is the number of days from the date the annuity was purchased to the date the eligible termination payment was made.

If the annuity was purchased with all or part of a previous eligible termination payment which had been 'rolled-over' (see notes below under the heading 'Roll-over'), it will be necessary for the Taxation Office to calculate and advise you of the amount to be included in your assessable income. In this situation, you should complete Schedule L to the extent that you are able. An explanation of the calculation of the amount included will be provided on request.

UNDEDUCTED CONTRIBUTIONS

If a superannuation fund made a payment of the kind described at (b) under the heading 'What is an Eligible Termination Payment?', the amount of the payment which represents undeducted contributions made by you to the fund after 30 June 1983 will not be subject to tax. The amount of undeducted contributions is the total of your contributions made during the 1983-84 income year less any amount you have claimed as a deduction at Item 33 on return form A or B.

The amount of your undeducted contributions as described above will be first excluded from that part of your eligible termination payment which is attributable to service after 30 June 1983. If the amount of undeducted contributions exceeds the 'after 30 June 1983'

part of your eligible termination payment, the amount of the excess will be deducted from the 'before 1 July 1983' part of the eligible termination payment.

UNUSED UNDEDUCTED PURCHASE PRICE

If the termination payment you received was one of the kinds described at (d) and (e) under the heading 'What is an Eligible Termination Payment?', the amount which represents the unused undeducted purchase price will not be taxed.

(A) If the eligible termination payment was made in respect of the commutation of a superannuation pension payable to you, or was payment of the residual capital value of a superannuation pension payable to you, the unused undeducted purchase price is the total of:

- (i) that part of your contributions made in each year up to 1982-83 which was not allowable either as a deduction or as rebatable expenditure; and
- (ii) any contributions made in 1983-84 for which you have not claimed a deduction at Item 33 on return form A or B.

The total of (i) and (ii) above is then reduced by any amounts which have been treated as undeducted purchase price, in any income year, against your income from the superannuation pension.

(B) Where you received a payment in respect of the commutation or residual capital value of a superannuation pension which had previously been payable to another person, the unused undeducted purchase price is the total of:

- (i) that part of the contributions made by the other person in each year up to 1982-83 which was not allowable either as a deduction or as rebatable expenditure; and
- (ii) any contributions made by the other person in 1983-84 for which he or she has not been allowed a deduction.

The total of (i) and (ii) above is then reduced by any amounts which have been treated as undeducted purchase price, in any income year, against income from the superannuation pension, received by both you and that other person.

(C) If the eligible termination payment was made in respect of the commutation of an annuity, the unused undeducted purchase price is the amount paid to purchase the annuity less any amounts which either have been allowable as rebatable expenditure or have been treated as undeducted purchase price in any income year, against the income from the annuity.

The amount calculated in accordance with (A), (B) or (C) above is then reduced by any part of the amount of an earlier eligible termination payment which would have been included in full in assessable income in your 1983-84 return, had it not been 'rolled-over' as contributions to the superannuation fund or to purchase the annuity.

NOTE: Where there was only a partial commutation of a superannuation pension or annuity, a statement setting out full details of the commutation should be attached to your return. This statement should include the amount received on commutation and an explanation of the effect of the commutation on your pension or annuity payments. In this case, the Taxation Office will calculate and advise you of the amount, net of unused undeducted purchase price, which will be included in your assessable income. You should complete Schedule L to the extent that you are able. An explanation of the calculation of the amount included will be provided on request.

Where you do not have all the information relating to the unused undeducted purchase price, (for example, you do not know the amount of your contributions which have not attracted a tax deduction or rebate before 1 July 1983, or the amount which has already been treated as undeducted purchase price against the pension or annuity income), you should attach a statement to this effect to your return. In this situation, you should complete Schedule L to the extent that you are able, and the Taxation Office will complete the necessary calculations and advise you of the result. An explanation of the calculation of the amount to be included in your assessable income will be provided on request.

'ROLL-OVER'

If you have received an eligible termination payment, and, within 90 days of receiving it, you deposited all or part of the payment with an approved deposit fund, transferred it to a superannuation fund or used it to purchase an annuity, the taxation consequences of receiving this payment will be deferred. This action is called 'rolling-over' an eligible termination payment.

Any amount that is 'rolled-over' will not be included in your assessable income until such time as it is repaid to you. If you received an eligible termination payment after 30 June 1983 but before 25 June, 1984, the period during which you may make a 'roll-over' has been extended to 23 September 1984.

If you have made a 'roll-over' as described above, you should insert the details in columns 2 to 6 at Section 7 of Schedule L, and sign the election at Item L17.