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# Taxation Administration Act

## Variation to the rate of withholding for certain superannuation income stream beneficiaries who turn 60 during the financial year – No. 2

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### Explanatory Statement

#### General Outline of Instrument

1. The pay as you go withholding system allows many taxpayers to make provision for their income tax liabilities by requiring payers to withhold amounts from certain income payments, including taxable superannuation income stream benefits.
2. This instrument is made by the Commissioner of Taxation (the Commissioner) pursuant to section 15-15 of Schedule 1 to the *Taxation Administration Act 1953* (TAA).
3. This is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

#### Date of effect

4. The instrument applies from 1 September 2007.

#### What is this instrument about?

5. This instrument revokes the previously registered legislative instrument *Taxation Administration Act - Variation to the rate of withholding for certain superannuation income stream beneficiaries who turn 60 during the financial year* (FRLI instrument: F2007L01787).
6. This instrument provides more accurate amounts of withholding for all relevant payees, by taking into account all of their circumstances.
7. The purpose of this instrument is to ensure that superannuation beneficiaries are not subject to excessive withholding in the financial year in which they turn 60.

#### What is the effect of this Instrument?

8. The effect of this instrument is to ensure that amounts withheld under the PAYG withholding system, from this class of payments, do not

exceed the amount of tax which they will be payable when the taxpayer receives their income tax assessment.

9. The instrument requires superannuation payers to calculate the amount to be withheld from these payments in accordance with the instructions given.
10. The information in this instrument will be used by superannuation funds, professional advisers, software developers and the Australian Taxation Office.

## **Background**

11. The TAA empowers the Commissioner to make withholding schedules specifying the amounts, formulas and procedures to be used for working out the amount required to be withheld by an entity from certain categories of payment, including superannuation income streams.
12. The TAA further empowers the Commissioner to vary the rate of withholding specified in the schedules to meet the special circumstances of a particular case or class of cases.
13. The Commissioner uses these powers to ensure that amounts withheld, in most cases, closely approximate the amount of income tax which will ultimately be payable on the relevant income.
14. The withholding schedule for superannuation income streams (*Schedule 34 - Tax table for superannuation income streams*) covers, amongst other things, amounts paid from a taxed source prior to beneficiary turning 60 years of age. Such amounts are tax free when paid after the beneficiary's 60th birthday.
15. In the year in which the beneficiary turns 60, applying the calculation methods in Schedule 34 to payments made before the payee's actual birthday can potentially lead to the total amount withheld being too high.
16. This instrument acts to ensure that the amount required to be withheld in these circumstances better matches the amount of income tax which will be payable on the relevant income.

## **Consultation**

17. The power to vary amounts required to be withheld is a routine part of tax administration.
18. Superannuation funds and software providers have been consulted about the variation through Tax Office sponsored forums.
19. There was some resistance from superannuation funds about the policy expressed in this variation, because of increased complexity and the cost of implementation. However, it was considered that the impact on the relevant pension beneficiaries of the over withholding which would otherwise occur was too significant to be acceptable.

20. To assist superannuation funds to implement the variation, we have provided look up tables as an alternative to the formulas so that amounts can be calculated separately.
21. The Tax Office will provide the necessary information to superannuation funds and software providers.

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**Deputy Commissioner of Taxation**

16 August 2007

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***Legislative references:***

*Taxation Administration Act 1953*

*Legislative Instruments Act 2003*

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