MLC TechConnect

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Guide to payments on termination of employment and genuine redundancy

This guide outlines the tax implications of payments made to employees on termination of employment, including genuine redundancy and the advice opportunities.

Summary

Upon termination of an employee's position, an employee may receive several different payments including:

- unused annual or long service leave
- payment in lieu of notice
- redundancy or 'severance' amounts
- employment termination payments, and
- outstanding wages and salary.

You should identify the types of payments received as some payments are specifically excluded from the definition of employment termination payment and are taxed separately.

Different taxation applies if the termination of employment is due to genuine redundancy or an approved early retirement scheme compared to if employment is terminated due to other reasons, such as resigning.

Contents

Employment termination payments

A payment is an employment termination payment (ETP) when it:

- is made to an employee, in consequence of the termination of their employment (a life benefit ETP), or another person after an employee's death, in consequence of the termination of that employee's job (a death benefit ETP), and
- is made within 12 months of the date of termination (with some exemptions outlined later), and
- is not specifically excluded from being an ETP.

ETPs receive concessional tax treatment and the applicable tax rate depends on the:

- age
- taxable income
- amount of the ETP, and
- type of ETP (either excluded or non-excluded, explained later).

The following table, though not exhaustive, outlines whether a payment is an ETP or not.

Table 1: Which payments are ETPs?

Payments included in ETPs	Payments not included in ETPs
Unused sick leave or rostered days off	Super benefits
Payments in lieu of notice	Unused annual leave
Gratuity or 'golden handshake'	Unused long service leave
Ex-gratia payments	Foreign termination payments
Genuine redundancy payments or early retirement scheme payments above the tax-free limit	Genuine redundancy payments or early retirement scheme payments within the tax-free limit
Invalidity payments (for permanent disability, other than compensation for personal injury)	Salary, wages, allowances, bonuses and incentives owing to an employee for work done or leave already taken
Certain compensation payments from employment disputes	Compensation for personal injury for economic loss
Compensation for loss of job or wrongful dismissal	An advance or a loan
Severance pay	Payments deemed to be a dividend
Non-genuine redundancy payments	Employee share scheme payments
Payments for loss of future super payments	Certain payments for restraint of trade
Lump sum payments paid on the death of an employee	Pensions and annuities
	Payments made from super funds

Exemptions from the 12-month rule

Unless an exemption applies, an ETP must be paid within 12 months of termination of employment to receive concessional tax treatment[1]. If paid outside this timeframe, the ETP is treated as assessable income and taxed at the individual's marginal tax rate (MTR). Exemptions from the 12-month rule include:

- genuine redundancy and early retirement scheme payments (including amounts exceeding the tax-free amount)
- where the individual applies for and the ATO has granted an exemption[2] because delays in payments are deemed reasonable (eg where there is a legal dispute between employer and employee, or where the employer is suffering financial difficulties and cannot pay within the timeframe)
- the payment is made by a liquidator, receiver or trustee in bankruptcy of an entity that was otherwise liable to make the payment and the date of appointment of the liquidator, receiver or trustee is no later than 12 months after the termination of employment[3]
- payments from a redundancy trust (in some cases)[4].

Genuine redundancy payments

A genuine redundancy payment is a payment received by an employee due to being dismissed because their position no longer exists and is not being replaced. Termination due to voluntary resignation, retirement, or dismissal for not meeting employment standards do not qualify as genuine redundancy.

The genuine redundancy payment represents the amount that exceeds what would have been received if the employee voluntarily resigned or retired. For a payment to receive concessional tax treatment under a genuine redundancy payment (or approved early retirement scheme), the following conditions must also be satisfied:

- the employee is dismissed before the earlier of the following:
  - the day they reach age 67[5], or
  - an earlier mandatory age of retirement or before the end of a particular period of service[6]
- for non-arm's length dismissals, the payment does not exceed amounts reasonably expected as though it was at arm's length
- there was no arrangement in place to employ the employee after their retirement, and
- the payment must not be in lieu of superannuation benefits.

ATO **Taxation Ruling TR 2009/2** provides further guidelines on these requirements.

Approved early retirement schemes

A scheme is an approved early retirement scheme if:

- all employees of the same class may participate in the scheme, and
- the employer is implementing the scheme to rationalise or reorganise the employer's operations by changing their operations or the nature of the workforce, and
- the ATO provides written approval that the scheme is an early retirement scheme.

To receive concessional tax treatment, an early retirement scheme payment must satisfy the conditions outlined in 'Genuine redundancy payments' above, including being paid within 12 months. The discussion below on the treatment of payments under genuine redundancy payments also applies to early retirement schemes.

Tax-free amount of genuine redundancy payments

Once a payment qualifies as a genuine redundancy payment or is paid under an approved early retirement scheme, the calculation of the 'tax-free amount' determines how much of the termination payment is received tax-free.

[1] ITAA97 s82-130(1)(b)
[2] ITAA97 s82-130(4)
[3] ATO guidance: **ETP 2018/1** and **ETP 2019/1**
[4] **Income Tax: Employment Termination Payments Redundancy Trusts (12 month rule) Determination 2019**
[5] ITAA97 s83-175.
[6] Any termination payments received upon completion of a fixed term contract will usually not qualify under the tax-free limit.

Advice tip

An amount ordinarily paid upon resignation or retirement (including if the individual is at least age 67) is always an ETP and will not have a tax-free amount.

To calculate the tax-free amount[7]:

Step 1 Identify the potential ETP payments. Refer to ‘Employment termination payments’ in Table 1 above for which payments are ETPs

Step 2 Reduce amount calculated at Step 1 by any amount ordinarily paid for resignation or retirement (this is always an ETP and cannot be reduced by the tax-free amount)

Step 3 Calculate the tax-free amount. For the 2026/27 financial year[8]:

$13,598 + ($6,801 x completed years of service)

Completed years of service means number of whole years (or sum of periods) of completed service

Step 4 Reduce the amount calculated at Step 2 by Step 3. If the payment at Step 2 exceeds the tax-free limit, the excess is an ETP. Add this to an amount at Step 2 that is always an ETP. If the tax-free amount is greater, no ETP is received unless there was an amount at Step 2 that is always an ETP.

Example 1 – calculating ETP and tax free portion

Harry was made redundant on 1 July 2026 after completing 11 years and 10 months of service with his employer. He received the following amounts from his employer:

Payment	**Amount**
Unused annual/long service leave	$10,000
Unused sick leave	$4,000
Severance payment	$55,000
Ex-gratia payment	$35,000

Harry has confirmed these payments are received under a genuine redundancy. Working through the steps to identify the ETP and tax-free amount:

Step 1: Identify the potential ETP

The following payments are treated as ETP payments:

- unused sick leave $4,000
- severance payment $55,000
- ex-gratia payment $35,000

Total potential ETP amount is $94,000. The remaining payments do not form part of the ETP and are taxed under separate rates.

Step 2: Reduce by any amounts paid on resignation or retirement

In this case, the amount is nil as all these payments are received due to the genuine redundancy and would not ordinarily be paid to Harry on resignation or retirement.

Step 3: Calculate the tax-free amount

Completed years of service is 11. Therefore, the tax-free amount is:

$13,598 + ($6,801 x 11 years of completed service) = $88,409

Step 4: Calculate ETP

Reduce amount at Step 2 by Step 3. The ETP is $5,591 ($94,000 - $88,409) as this is the potential ETP amount that exceeds the tax-free amount.

[7] ITAA97 s83-180

[8] Thresholds are indexed on 1 July.

Advice tip

If your client is close to completing another year of service, deferring the date of termination (where the employer permits) may increase the tax free amount of the payment. In the example above, if Harry can defer the date of termination for two months, he would have 12 years of completed service. This would provide an additional tax free amount of $6,801 (in 2026/27). Furthermore, if the date of termination is deferred until the next financial year, the client can benefit from the indexed thresholds to calculate the tax free amount. Also, if the client has reduced taxable income in the next financial year, the taxable payments may be taxed at lower marginal tax rates.

Age limitation

An employee must be less than age 67 (or earlier mandatory retirement age) at the time of dismissal for a redundancy payment to qualify as a genuine redundancy payment. Where dismissal occurs on or after this age:

- the employee is not entitled to a tax-free amount of a genuine redundancy payment
- the entire payment is taxed as an ETP, and
- unused annual leave and long service leave payments are subject to less favourable tax rates.

Advice tip

Where possible, clients being made redundant who are nearing age 67 may want to negotiate an earlier dismissal date with their employer to access the concessional tax treatment for genuine redundancy payments. However, they should also consider the impacts of negotiating an earlier termination, such as foregone salary, superannuation guarantee contributions and potentially not satisfying the work test to make personal deductible contributions from age 67.

Taxable and tax-free components of ETPs

Once the amount of the ETP is determined, the ETP usually comprises of taxable component only. Under certain circumstances, a tax-free component may exist where:

- the ETP includes an invalidity segment, or
- the employment period commenced before 1 July 1983 (ie pre-July 83 segment).

The calculation of the invalidity segment and/or pre-July 83 segment is determined by formulas which are contained **in Appendix A – Tax-free component of ETPs**. Where a tax-free component exists, the taxable component of the ETP is calculated as:

Taxable component of ETP = Total ETP – tax-free component of ETP

In all cases, the **tax-free component** of an ETP is non-assessable and non-exempt income (ie not included in assessable income for income tax purposes and not subject to tax).

Taxation of life benefit ETPs

A life benefit termination payment is a lump sum ETP paid to an employee because of the termination of their employment (excludes termination due to death of the employee). There are two categories of life benefit termination payments, ‘excluded’ and ‘non-excluded’ payments, which impacts the amount of an ETP subject to concessional tax treatment.

Excluded payments are subject to the ETP cap only, while non-excluded payments are subject to the ETP cap and the whole-of-income cap. However, payments received under a genuine redundancy or early retirement scheme are generally not subject to the whole-of-income cap[9].

[9] ITAA97 s82-10(6)

Excluded ETPs

Excluded payments include:

- the taxable portion of genuine redundancy payments (or a payment that would have been a genuine redundancy payment if the recipient was not at least age 67)
- early retirement scheme payments
- invalidity payments, and
- compensation payments due to a genuine employment related dispute relating to personal injury, harassment, discrimination or unfair dismissal.

Death benefit termination payments are also excluded payments but are subject to separate tax treatment (see below).

Non-excluded ETPs

Any payment that is not an excluded payment is a non-excluded payment. Non-excluded payments are assessed against both the ETP cap and the whole-of-income cap. Non-excluded payments include:

- golden handshakes and gratuities
- non-genuine redundancy payments
- severance pay and payments in lieu of notice
- payments of unused sick leave[10] or unused rostered days off.

Advice tip

An employer must indicate whether the ETP paid has excluded or non-excluded payments. If either ‘ O’ or ‘P’ is on a client’s PAYG payment summary – employment termination payment, non-excluded payments are in the ETP and the whole-of-income cap applies.

Table 2: Taxation of life benefit termination payments[11]

Age at 30 June in payment year	ETPs	Tax rate#
Tax -free component (all ages)	All ETPs	Tax-free
Under age 60	Within ETP cap^ or if a non-excluded ETP within the whole-of-income cap of $180,000*	Up to 30%
	Otherwise	45%
Age 60 or above	Within ETP cap^ or if a non-excluded ETP within the whole-of-income cap of $180,000*	Up to 15%
	Otherwise	45%

Medicare and Medicare levy surcharge may also apply.

^ Reduced by the taxable component of other ETPs paid in the financial year or ETPs paid in previous years if relating to the same termination. The ETP cap is $270,000 for the 2026/27 financial year.

* The whole-of-income cap is reduced by other taxable income received in the financial year (excluding the taxable component of this ETP or later ETPs). Tax losses are disregarded. See below for more information on whole-of-income cap.

[11] ITAA97 s82-10

The taxable portion of an ETP is included in assessable income. However, ETPs within the cap receive a tax offset ensuring the rate of tax paid on the ETP does not exceed the rates shown in **Table 2**. Where a termination payment includes a mixture of excluded and non-excluded payments, the excluded payments are applied against the ETP cap first.

This ensures that a person's ETP cap is not exhausted on the non-excluded payments (which may not get concessional tax treatment under the whole-of-income cap rules discussed below) at the expense of excluded payments (which may receive concessional tax treatment).

Whole-of-income cap

In addition to the ETP cap, the taxable component of non-excluded payments is also subject to a $180,000 whole-of-income cap (non-indexed). This limits the amount of non-excluded ETPs that are eligible for the ETP tax offset.

The whole-of-income cap takes into account other taxable income earned by a client in the financial year, such as employment income, investment income and unused annual leave and long service leave payments. The whole-of-income cap is reduced (but not below zero) by other taxable income received in the financial year (excluding the taxable component of this ETP or later ETPs) and ignores tax losses.

The taxable component of a client's non-excluded ETP being assessed against the whole-of-income cap is then added last[12] to an individual's other taxable income. If this combined amount is **equal to or below** the whole-of-income cap, it continues to be eligible for the ETP tax offset.

If part or all of the non-excluded ETP added to a client's other taxable income exceeds the whole-of-income cap in a financial year, the amount in excess of the cap is taxed at the highest MTR (Medicare and Medicare levy surcharge may also apply). This part is not eligible for the ETP tax offset, even if there is unused ETP cap remaining.

The whole-of-income cap rules do not apply to excluded payments, the tax-free component of an ETP or the tax-free amount of a genuine redundancy payment.

Advice tip

If, after receiving a non-excluded ETP, an employee finds new employment and earns more taxable income in the same financial year, they may pay more tax on the ETP when they lodge their tax return. This is due to the taxable income earned after termination further reducing the amount of whole-of-income cap available for the ETP. Refer to Appendix B for a more comprehensive list of what is included in taxable income for the whole of income cap purposes.

Where a client receives multiple ETPs in a financial year, their taxable income also includes the taxable component of ETPs received earlier in the income year, including amounts that are excluded payments and subject to the ETP cap (eg ineligible for tax-free amount). These payments are subject to tax, but the ETP tax offset ensures the tax paid is limited to the maximum rates of tax shown in Table 2: Taxation of life benefit termination payments.

Example 2 - ETP comprising excluded payment only

Virgil (age 69) has worked for his employer for five years. In 2026/27, his company merges with another and his position is no longer required. Virgil receives a genuine redundancy and is paid $130,000 (100% taxable component). This amount would not have been received if he had voluntarily resigned or retired.

Although his payment does not qualify as a genuine redundancy payment as he is aged 67 or more (and so not eligible for a tax-free amount), it is still an excluded payment as it would otherwise have qualified as a genuine redundancy payment.

Virgil has not received any ETPs this financial year, therefore his $130,000 redundancy payment is taxed at a maximum of 17% (Medicare levy surcharge may apply) as it is within the $270,000 ETP cap.

[12] Revised explanatory memorandum to Tax Laws Amendment (2012 Measures No. 3) Bill 201 (Cth), paragraph 5.11.

Example 3 - ETP comprising non-excluded payment only

Henrique (62) retired from his job in April 2027. In the 2026/27 financial year, Henrique received:

- taxable income from wages and investments of $110,000
- unused annual leave lump sum of $10,000, and
- an unused sick leave payment of $105,000 (100% taxable ETP).

As the payment relates to an entitlement from voluntary resignation (ie not a genuine redundancy), the unused sick leave is a non-excluded payment and may be subject to the whole-of-income cap.

To work out Henrique's whole-of-income cap, $180,000 is reduced by Henrique's other taxable income and unused annual leave (as this amount is included in assessable income) for the financial year but excluding the unused sick leave ETP (ie $180,000 - $120,000). This leaves a whole-of-income cap balance of $60,000. Henrique is eligible for the ETP tax offset on $60,000, paying a maximum of 17% (including Medicare levy)* tax on this amount, and the remaining $45,000 is taxed at 47% (top MTR including Medicare levy)*.

Example 4 - ETP comprising excluded and non-excluded payments

Going back to the Example 2 with Virgil (age 69), let's assume the same facts except in addition to the $130,000 excluded genuine redundancy payment, he also receives a $65,000 non-excluded termination payment (combined payment of $195,000). He also earned other taxable income of $165,000 in the financial year.

As the ETP comprised excluded and non-excluded payments, the payments are taken to be received in the following order:

- excluded payment of $130,000 is received first, and
- non-excluded payment of $65,000 is deemed to be received immediately after.

This enables the tax treatment for the separated payments to be determined. The $270,000 ETP cap amount applies to the excluded payment and the entire $130,000 of the genuine redundancy portion of the ETP attracts the ETP tax offset (maximum tax rate of 17% including Medicare levy)*.

For the non-excluded payment, Virgil is eligible for an ETP offset which is the lesser of his available ETP cap of $140,000 ($270,000 – 130,000), or his reduced whole-of-income cap of $15,000 ($180,000 - $165,000).

The first $15,000 of the non-excluded payment attracts the ETP tax offset and is taxed at a maximum of 17% and the balance of $50,000 is taxed at 47% (top MTR including Medicare levy)*.

*Medicare levy surcharge may also apply.

Taxation of death benefit ETPs

A death benefit termination payment is a lump sum ETP made by an employer to a deceased employee's beneficiary after the employee's death, in consequence of the termination of the employee's employment. Death benefit ETPs must be received no later than 12 months after the termination to receive concessional ETP tax treatment, unless an exemption applies, refer to '**Exemptions from 12-month rule**' above.

Separate caps apply to life benefit termination payments and death benefit termination payments. This means any life benefit termination payments will not count towards the death benefit termination payments cap. The whole-of-income cap does not apply to the death benefit termination payment.

A tax-free component may exist if there is a pre-July 83 segment and is not subject to tax. The taxable component of a death benefit termination payment is subject to the ETP cap amount. The table below outlines the applicable tax rates:

Table 3: Taxation of death benefit termination payments[13]

Recipient[#]	Component	ETP cap amount (2026/27)	Tax rate*
Tax dependant	Tax-free	N/A	Tax free
	Taxable	First $270,000	Tax free
		Balance over $270,000	45%
Non-tax dependant	Tax-free	N/A	Tax free
	Taxable	First $270,000	Up to 30%
		Balance over $270,000	45%

Refer to Appendix C for definition of dependants and non-dependants.

* For payments made directly to individuals, Medicare and Medicare levy surcharge may also apply for non-zero tax rates.

The beneficiaries must include the taxable component in their assessable income. The ATO will calculate any entitlement to the offset to ensure the maximum rate of tax applies. As assessable and taxable income increases, this may impact the beneficiary's entitlement to benefits or concessions in the year received.

Payments to the estate

Death benefit termination payments to the estate are taxed differently compared to payments made to beneficiaries.

Payments to the trustee of a deceased estate are taxed in the estate. The maximum rate of tax depends on whether the beneficiaries who have benefited, or are expected to benefit, from the payment are dependants or non-dependants of the deceased.

Advice tip

Death benefit termination payments made to a deceased estate and subsequently paid to a beneficiary are not subject to the Medicare levy or Medicare levy surcharge. This may reduce the tax payable for non-dependants and for ETPs with taxable components exceeding the ETP cap.

Furthermore, payments for salary and wages, unused annual leave and long service leave made after the death of an employee to the beneficiaries or the trustee of the deceased's estate are exempt from tax[14].

Outstanding wages and salary

The final payment of outstanding wages or salary to an individual (ie not upon death) is assessable income and taxed at marginal rates (no special tax treatment applies).

Payment includes transfer of property

An ETP, genuine redundancy payment or early retirement scheme payment can include the transfer of property. The value of such a payment is the market value of the property less any consideration given for the transfer of the property.

[13] ITAA97 Subdivision 82-B.
[14] ITAA36 s101A(2)

Unused annual leave and long service leave payments

Payments of unused annual leave and long service leave made on the death of an employee to the deceased's beneficiary or estate is exempt from tax[15]. Otherwise, lump sum annual leave and long service leave payments are taxed as follows:

Table 4: Resignation or retirement - Taxation of lump sum unused AL and LSL payments[16]

Type of leave	Service period	Assessable income	Maximum tax rate#
Annual Leave	Pre 18/08/93	100%	30%
	Post 17/08/93	100%	Marginal
Long Service Leave	Pre 16/08/78	5%	Marginal
	16/08/78 to 17/08/93	100%	30%
	Post 17/08/93	100%	Marginal

Medicare levy and Medicare levy surcharge may also apply

Table 5: Genuine redundancy, invalidity or early retirement scheme – Taxation of lump sum unused AL and LSL payments

Type of leave	Service period	Assessable income	Maximum tax rate#
Annual leave	Any service period	100%	30%
Long Service Leave	Pre 16/08/78	5%	Marginal
	Post 15/08/78	100%	30%

#Medicare levy and Medicare levy surcharge may also apply.

Allocating leave payments across the relevant service periods

An employer will allocate the leave payments across the relevant service periods in accordance with the following:

Annual leave

Annual leave (including leave loading) is apportioned across each service period. Leave attributed to the pre 18/08/1993 service is calculated below:

$$\text{Annual leave payment} \times \frac{\text{pre 18/08/93 days}}{\text{total days in service}}$$

The leave attributed to the post 17/08/1993 period is the balance of the annual leave payment.

Long service leave

Long service leave operates on the 'last-in first-out' principle and is applied at the point that the long service leave is taken. For additional information refer to the ATO website.

[15] ITAA36 s101A(2)
[16] ITAA97 subdivisions 83-A and 83-B

Advice tip

Unused leave paid upon termination of employment can only be salary sacrificed to super if:

- an effective salary sacrifice agreement was established prior to the employee becoming entitled to the leave payments, or
- the employee takes the leave (during the continuation of employment) and an effective salary sacrifice agreement is in place for ongoing wages/salary.

An employee who cannot salary sacrifice leave payments, may make personal contributions to superannuation and claim a tax deduction for those contributions (if eligible).

The inclusion of leave payments in assessable income may impact other assessable or taxable income related measures for the client such as:

- Family Tax Benefit
- Government co-contribution
- Low income tax offset (LITO)
- Seniors and pensioners tax offset (SAPTO)
- HELP debt repayments
- Division 293 tax.

Advice opportunities

Personal deductible and catch-up concessional contributions

The ability to claim a tax deduction for super contributions may allow many clients to manage tax payable in the same financial year as receiving an ETP. Furthermore, eligible clients may save tax by making catch-up concessional contributions if they have unused concessional caps in the five previous financial years. To make a catch-up contribution, the client's total superannuation balance must be below $500,000 on the prior 30 June.

When recommending clients make super contributions, remember that the amount is preserved until a condition of release is met.

Division 293 tax

You should take care where a client's taxable income (including the taxable ETP) plus concessional contributions (including any catch-up amounts) exceeds the $250,000 Division 293 threshold. Although personal deductible contributions reduce taxable income, they are added back under the 'income for surcharge purposes'[17] used for determining liability to pay Division 293 tax. The portion of non-excessive concessional contributions above $250,000 incur an additional 15% tax.

Advice tip

As certain leave payments and ETPs are subject to maximum tax rates, you need to calculate the benefit of any recommended personal deductible contribution, including the possibility of Division 293 tax.

Please refer to **Guide to concessional contributions** and **Div. 293 tax explained** for more information.

[17] Income for surcharge purposes for Division 293 includes taxable income, reportable fringe benefits, total net investment losses and low tax contributions.

Defer taking payment until age 60

If a client can delay termination of employment or the payment of a termination payment[18] (if employer can oblige) until the financial year that a client will reach age 60, there may be tax benefits.

A client receiving an excluded ETP in the financial year they reach age 60 will pay 15% tax (rather than 30%) on eligible amounts up to the $270,000 ETP cap (2026/27). Remember, the client's age is based on their age at the end of the financial year and not the date the payment is received.

Clients receiving a non-excluded ETP may also benefit from the tax saving (15% compared to 30%) on eligible amounts up to the ETP cap upon reaching age 60, depending on their level of other taxable income (ignoring the ETP) and their remaining whole-of-income cap.

Defer taking payment until new financial year

If a client's income is expected to reduce significantly in the next financial year, there may be a benefit in deferring the termination or receipt of payment until after 1 July if the employer can oblige.

Some ETP tax rates are maximum rates, which means that if a client's MTR in a financial year is lower than the maximum rate, their MTR applies to the payments. Furthermore, the ETP cap and tax-free amount of genuine redundancy is indexed on 1 July each year.

Where a client has less taxable income in the following financial year, this also means more room under the whole-of-income cap. With careful consideration, employees expecting to receive larger non-excluded payments may benefit from this strategy, as more of the non-excluded payments may be eligible for the ETP tax offset.

Centrelink considerations

The receipt of payments upon ceasing employment may impact a person's eligibility to receive certain income support payments including waiting periods. Refer to our adviser article **Centrelink waiting periods** for more information.

[18] Must be paid within 12 months of termination date to access ETP tax offset unless exemption applies.

Appendix A – Tax-free component of ETPs

Invalidity segment

An invalidity segment of an ETP arises where an employee terminates their employment before their last retirement day due to ill-health and is assessed by two qualified medical practitioners to be unable to return to work in a position they are reasonably qualified because of education, experience or training.

The invalidity segment of an ETP is calculated using the following formula that apportions part of the ETP to the tax-free component.[19]:

Invalidity segment = ETP x days to retirement / (employment days + days to retirement)

Where:

Days to retirement = the number of days from the day on which the person's employment was terminated to the last retirement day.

Employment days = the number of days of employment to which the payment relates.

Pre-July 83 segment

An ETP includes a pre-July 1983 segment if any of the employment to which the payment relates occurred before 1 July 1983. The pre-July 1983 segment is part of the tax-free component of the ETP and is calculated using the following formula.[20]

$$\textbf{Pre-July 83 segment} = \text{(ETP less invalidity segment)} \times \frac{\text{Days of employment to which payment relates that occurred before 1/7/83}}{\text{Total number of days of employment to which payment relates}}$$

Appendix B – Taxable income for whole-of-income cap

The whole-of-income cap includes other taxable income that the employee earns in the financial year. Other taxable income is assessable income minus deductions.

Taxable income includes:

- salary or wage income, including overtime
- bank interest
- other investment income
- bonuses
- lump sum unused annual leave and long service leave paid on termination of employment
- the taxable component of other ETPs received earlier in the same income year.

Taxable income does not include:

- reportable fringe benefits
- salary sacrifice items
- super guarantee
- reportable employer super contributions
- reimbursements of work-related expenses
- taxable component of excluded part of a single ETP that also includes a non-excluded part.

[19] ITAA97 s82-150
[20] ITAA97 s82-155

Appendix C – Dependant for death benefit ETP tax purposes

A dependant of the deceased includes, at the time of their death, any of the following:

- a surviving spouse
- a former spouse
- a child of the deceased who is less than 18 years old
- any other person who was financially dependent on the deceased
- any person who had an interdependency relationship with the deceased.

Any person other than those described above is considered a non-tax dependant for death benefit ETP purposes and subject to a higher rate of tax on amounts within the ETP cap.

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