

Tax table for unused leave payments on termination of employment



FOR PAYMENTS MADE ON OR AFTER 1 JULY 2011 TO 30 JUNE 2012.



This table should be read with *Statement of formulas for calculating flood levy component* (NAT 73834).



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 section 12-90 of Schedule 1.



For more information visit www.ato.gov.au



WHO SHOULD USE THIS TABLE?

Use this table if you pay an amount for a payee's unused leave on the termination of their employment or office.

Unused leave payments on termination of employment or office include payments for unused annual leave, holiday pay, leave loading, leave bonuses and unused long service leave.

Before calculating the amount to be withheld, you must determine if the payments are being made as a result of a genuine redundancy, invalidity or an early retirement scheme.

FLOOD LEVY

The government introduced a temporary flood and cyclone reconstruction levy (flood levy) applying to income for 2011–12 financial year only.

Individual payees, both residents and foreign residents who have a taxable income over \$50,000 in the 2011–12 year will have to pay the flood levy.

Some payees will be exempt from the flood levy if they have been affected by a natural disaster.

❗ If your payee wants to claim an exemption from paying the flood levy, they will need to complete a *Flood levy exemption declaration* (NAT 73797).

➔ For more information about the flood levy visit www.ato.gov.au/floodlevy

The table below outlines the flood levy rates for the 2011–12 year.

Taxable income	Flood levy on this income
\$0 to \$50,000	Nil
\$50,001 to \$100,000	Half a cent for each \$1 over \$50,000
Over \$100,000	\$250 plus 1c for each \$1 over \$100,000

❗ If you need to withhold for the flood levy, read this table together with *Statement of formulas for calculating flood levy component* (NAT 73834).

HOW TO WORK OUT WITHHOLDING AMOUNTS

If the payee has given you their tax file number (TFN)

The amount to be withheld is calculated using the table below.

❗ If the post-17 August 1993 lump sum payment from normal termination is less than \$300, you must withhold the lesser of:

- the amount worked out using the table below, or
- 31.5% of the payment.

Calculating a withholding amount for the flood levy

If you pay:

- an amount of unused leave with the withholding rate of 31.5%
- employment termination payments (ETP)

when an employee ceases working for you, you may need to withhold additional amounts for the flood levy.

❗ No withholding for the flood levy is required for lump sums if the payment is \$50,000 or less, or the payee has claimed the flood levy exemption.

Payment type	Reason	Accrual dates	Withholding rates (including Medicare levy)	Payment summary label	Does the flood levy apply?
Long service leave	Normal termination (eg voluntary resignation, employment terminated due to inefficiency, retirement)	Pre-16 August 1978	5% of total at marginal rates	B	Yes
		16 August 1978 to 17 August 1993	31.5%	A	Yes
		Post-17 August 1993	Marginal rates	Include in salary/wages	Yes
	Termination because of genuine redundancy, invalidity or early retirement scheme	Pre-16 August 1978	5% of total at marginal rates	B	Yes
		16 August 1978 to 17 August 1993	31.5%	A	Yes
		Post-17 August 1993	31.5%	A	Yes
Annual leave	Normal termination (eg voluntary resignation, employment terminated due to inefficiency, retirement)	Pre-18 August 1993	31.5%	A	Yes
		Post-17 August 1993	Marginal rates	Include in salary/wages	Yes
	Termination because of genuine redundancy, invalidity or early retirement scheme		31.5%	A	Yes
Annual leave loading (over \$320)	Normal termination (eg voluntary resignation, employment terminated due to inefficiency, retirement)	Pre-18 August 1993	31.5%	A	Yes
		Post-17 August 1993	Marginal rates	Include in salary/wages	Yes
	Termination because of genuine redundancy, invalidity or early retirement scheme		31.5%	A	Yes

Add together any unused leave payments with the withholding rate of 31.5% and the taxable components of any ETP made at the time of termination. If the total is more than \$50,000 calculate withholding for the flood levy as follows:

Step	Instruction
X = flood levy UL = unused leave payment with the withholding rate of 31.5%	
1	Divide the total of all of the taxable components of the ETP and UL by 52
2	Using <i>Statement of formulas for calculating flood levy component</i> (NAT 73834) calculate the weekly flood levy withholding amount on the amount calculated in step 1
3	Multiply the weekly flood levy withholding amount (calculated in step 2) by 52
4	If the payment includes ETP and UL, calculate the proportion of the flood levy amount which relates to each using this formula. $\frac{UL}{UL + ETP} \times X = \text{flood levy applicable to UL}$
5	The total withholding for the UL is the sum of the withholding calculated using the rates set out in the table on page 2 and the flood levy applicable to the UL.

Withholding for the flood levy applies on a per payment basis. There is no requirement for a payer to keep a cumulative total of lump sum payments for an individual.

❗ Where withholding amounts for the flood levy include UL and ETP, apportion the amount between the *PAYG payment summary – individual non-business* and *PAYG payment summary – employment termination payment*.

Marginal rate calculation

- Using the relevant PAYG withholding tax table, work out the amount to withhold from the payee's normal gross earnings for a regular pay period.
- Divide the amount of the payment by the number of normal pay periods in 12 months (12 monthly payments, 26 fortnightly payments or 52 weekly payments).
- Disregard any cents.
- Add the amount at step 3 to the normal gross earnings for a single pay period.
- Use the same PAYG withholding tax tables used at step 1 to work out the amount to withhold from the amount at step 4.
- Subtract the amount at step 1 from the amount at step 5.
- Multiply the amount obtained at step 6 by the number of normal pay periods in 12 months (12 monthly payments, 26 fortnightly payments or 52 weekly payments).

❗ Where applicable the PAYG withholding tax tables incorporate the flood levy, therefore no additional calculation is required to calculate the flood levy when using the marginal rate calculation.

If the payee has not provided you their TFN

If the payee receiving the unused leave payments has not provided you their TFN before the payment is made, you must withhold 46.5% from the payment.

If the payee is a prescribed foreign resident who has not provided you their TFN, you must withhold 45% from the payment.

❗ Do not add any amounts for the flood levy.

EXAMPLE 1

The following example uses the *PAYG withholding – Weekly tax table* (NAT 1005) effective from 1 July 2011.

Beth retires on 31 December 2011. She qualified for long service leave after 10 years of service, with further leave accruing on each completed year of service.

She is not leaving because of genuine redundancy, invalidity or under an early retirement scheme.

This week Beth also receives her normal weekly earnings of \$600. She has quoted her tax file number and is not entitled to leave loading. Therefore, the amount withheld is calculated using column 3 of the weekly tax table.

Details of payment for long service leave

Pre-16 August 1978 component = \$4,750.00

16 August 1978 to 17 August 1993 component = \$8,500.00

Post-17 August 1993 component = \$11,750.00

Amounts to be withheld

Pre-16 August 1978 component
= \$4,750.00 × 5% = \$237.50

The marginal rate calculation is used to work out the amount to be withheld from the pre-16 August 1978 component.

16 August 1978 to 17 August 1993 component
= \$8,500.00 × 31.5% = \$2,677.50

The post-17 August 1993 component of \$11,750.00 is also to be withheld at the marginal rate. To simplify the marginal rate calculation for this payee, the pre-16 August 1978 component and the post-17 August 1993 component are added together first = \$237.50 + \$11,750.00 = \$11,987.50

Now apply the marginal rate calculation to the sum of the two components.

Step	Instruction	Result
1	Amount to be withheld from normal gross earnings (\$600)	\$63
2	Divide the amount of the payment by the number of normal pay periods in 12 months (\$11,987.50/52)	\$230.53
3	Disregard any cents	\$230
4	Add the amount at step 3 to normal gross earnings for a single pay period (\$600 + \$230)	\$830
5	Work out the amount to be withheld from the amount at step 4 (\$830)	\$125
6	Subtract the amount at step 1 from the amount at step 5 (\$125 – \$63)	\$62
7	Multiply the amount at step 6 by the number of normal pay periods in 12 months (\$62 × 52)	\$3,224

The total amount to be withheld from the three components of Beth's unused long service leave payments are \$2,677.50 + \$3,224.00 = \$5,902 (see 'Rounding of withholding amounts' on page 4).

The total amount to be withheld is then \$5,965 [\$63 (withholding from normal earnings) + \$5,902 (withholding from long service leave)].

EXAMPLE 2

Taxable component of ETP and unused leave greater than \$50,000

James is an employee of BigBiz Pty Ltd and is 40 years old. His preservation age is 55. He is made redundant from his position at BigBiz and receives a lump sum payment made up of:

- ETP of \$57,000 and
- a payment for unused annual leave of \$13,500 (subject to withholding rate of 31.5%).

The tax free component of the ETP is \$12,000 and the taxable component is \$45,000.

BigBiz is required to withhold from the taxable component of the ETP and the unused annual leave payment. James has previously provided his TFN to BigBiz and claimed the tax free threshold. He has not completed a *Flood levy exemption declaration*.

As the sum of the taxable component of the ETP and the unused annual leave payment is greater than \$50,000 BigBiz is also required to withhold an amount for the flood levy.

As James is under preservation age BigBiz calculates the withholding amount for the unused leave payment with withholding rate of 31.5% (UL) as follows:

Step	Instruction	Result
1	Amount to be withheld on UL using table on page 2 ($\$13,500 \times 0.315$).	\$4,253
2	Add the taxable component of the ETP and the UL and divide the result by 52 ($\$45,000 + \$13,500 \div 52$).	\$1,125
3	Using <i>Statement of formulas for calculating flood levy component</i> (NAT 73834) calculate the weekly flood levy withholding amount on the amount calculated in step 2.	\$1
4	Multiply the weekly withholding amount (calculated at step 2) by 52 ($\$1 \times 52$).	\$52

As the payment includes an ETP and UL BigBiz calculates the proportion of the flood levy withholding which relates to the UL.

5	Calculate the flood levy applicable to the UL ($\$13,500 \div (\$13,500 + \$45,000) \times \52)	\$12
6	Add the result of step 1 to the flood levy applicable to the UL (step 5) to determine the total withholding amount for the UL ($\$4,253 + \12).	\$4,265

NORMAL GROSS EARNINGS

Normal gross earnings are all payments, except those relating to termination payments, received in the last full period of employment. This includes taxable allowances, overtime and bonuses. Therefore, a payee's normal gross earnings should be taken to be the earnings relating to the last full pay period worked.

Where a payee's pay fluctuates significantly over a number of pay periods, the Australian Taxation Office (ATO) will accept an average of gross taxable earnings for the financial year to date over the number of pays received.

TAX FILE NUMBER DECLARATION

Any *Tax file number declaration* a payee provided to you while they were working for you will only be effective:

- for the period that they were working for you, and
- 12 months after you make the last payment.

ROUNDING OF WITHHOLDING AMOUNTS

Withholding amounts calculated by applying this table should be rounded to the nearest dollar. Values of 50 cents or higher are rounded upwards. If a TFN is not provided, ignore cents when calculating withholding amounts.

PAYG WITHHOLDING PUBLICATIONS

For more information on withholding from unused leave payments on termination of employment, refer to *How to withhold amounts from unused leave payments on termination of employment* (NAT 3032).

All PAYG withholding tax tables and other PAYG publications can be accessed quickly and easily from www.ato.gov.au

Copies of weekly and fortnightly tax tables are available from most newsagents. Newsagents also hold copies of the *Tax file number declaration* (NAT 3092), *Withholding declaration* (NAT 3093) and the *Flood levy exemption declaration* (NAT 73797).

© AUSTRALIAN TAXATION OFFICE FOR THE COMMONWEALTH OF AUSTRALIA, 2011

You are free to copy, adapt, modify, transmit and distribute this material as you wish (but not in any way that suggests the ATO or the Commonwealth endorses you or any of your services or products).

PUBLISHED BY

Australian Taxation Office
Canberra
May 2011

OUR COMMITMENT TO YOU

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations. If you feel that this publication does not fully cover your circumstances, or you are unsure how it applies to you, you can seek further assistance from us.

We regularly revise our publications to take account of any changes to the law, so make sure that you have the latest information. If you are unsure, you can check for more recent information on our website at www.ato.gov.au or contact us.

This publication was current at **May 2011**.

JS 18787