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# Taxation Administration Act

## Occasional payroll donations to deductible gift recipients No. 4

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### Explanatory Statement

#### General Outline of Instrument

1. This instrument enables a variation to the amount of withholding required by a payer under the pay as you go withholding system for payees who make occasional donations to a deductible gift recipient under an occasional workplace giving arrangement.
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*.
3. This instrument complements Legislative Instrument Ref: F2006B00300 (registered on the 10th February 2006) which provides a reduction in withholding when payers make donations at the direction of payees under a regular planned workplace arrangement.
4. This is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.
5. This legislative instrument will revoke Legislative Instrument No. F2011L02733 registered on the 19<sup>th</sup> December 2011.

#### Date of effect

6. The instrument commences on the day after it is registered on the Federal Register of Legislative Instruments.
7. It provides a variation to the amount of withholding required from payments made after the date the instrument is registered.

### **What is this instrument about?**

8. This instrument varies the amount required to be withheld by a payer who makes donations to a deductible gift recipient at the direction of a payee where the variation for donations made under a regular planned workplace giving arrangement would not apply.
9. As a result, the person making the donation will receive the taxation benefit of the deductible gift at the time of making the donation, rather than waiting until their tax assessment for the relevant year.

### **What is the effect of this instrument?**

10. The instrument is a pay as you go withholding class variation that reduces the amount of withholding by a payer for the relevant payees for the pay period in which the donation is made. It has been developed to enable a more accurate withholding calculation for occasional donations.
11. This instrument is provided to allow payers wishing to facilitate a program for making donations at the direction of their payees where those donations are not made under a regular planned giving arrangement.
12. This instrument provides updated withholding instructions which provide a simple flat rate for these donations.
13. An assessment of the compliance cost impact indicates that the impact will be minor for both implementation and on-going compliance costs. The new instrument is of a minor or machinery nature.

### **Background:**

14. A pay as you go (PAYG) withholding class variation (Legislative Instrument Ref: F2006B00300 - registered on the 10th February 2006) provides a reduction in withholding when payers make donations at the direction of payees under a regular planned workplace arrangement. The calculations applying under this instrument are not suitable for cases where a payee makes a large once only donation from a single pay.
15. That class variation does not apply to donations made outside a regular planned giving arrangement. If used for large, once only donations, it would provide significantly inaccurate results.
16. The 2009 Victorian bushfires resulted in a demand from payers and payees to provide similar assistance when donations were made to deductible gift recipients through payroll systems under occasional workplace giving arrangements, for example a once only donation. In consequence, a class variation was registered on 23 March 2009 and later replaced by an updated variations registered on 15 December 2010 and subsequently on 19<sup>th</sup> December 2011.

17. This further updated instrument will continue to provide the mechanism for payers and payees to provide assistance when donations are made to deductible gift recipients under occasional workplace giving arrangements, for example, when a one-off donation is made.

**Consultation:**

18. The need for this instrument was identified by payers wishing to make occasional donations at the direction of their employees following the Victorian bushfires disaster in 2009. Requests for variations received from various payers were actioned on a case by case basis.
19. The variation only applies if there is mutual agreement between payer and payee.
20. No further consultation has been conducted as the affect of the instrument is to provide an immediate taxation benefit for payees who direct their payers to make donations that are not made under a regular planned giving arrangement.

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**Steve Vesperman**  
**Deputy Commissioner of Taxation**  
**8 November 2013**

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***Legislative references:***

*Taxation Administration Act 1953*

*Legislative Instruments Act 2003*

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## **Statement of Compatibility with Human Rights**

This Statement is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### **Taxation Administration Act Occasional payroll donations to deductible gift recipients No. 4**

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview**

This instrument enables a variation to the amount of withholding required by a payer under the pay as you go withholding system for payees who make occasional donations to a deductible gift recipient under an occasional workplace giving arrangement.

This instrument will continue to provide the mechanism for payers and payees to provide assistance when donations are made to deductible gift recipients under occasional workplace giving arrangements, for example, when a one-off donation is made.

#### **Human rights implications**

This legislative instrument does not engage any of the applicable rights or freedoms as it has been developed to enable a more accurate withholding calculation for occasional donations and is of a minor or machinery nature.

#### **Conclusion**

This legislative instrument is compatible with human rights as it does not raise any human rights issues.

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**Steve Vesperman**  
**Deputy Commissioner of Taxation**  
**8 November 2013**

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