

EXPLANATORY STATEMENT

Veterans' Entitlements Income (Exempt Lump Sum - HILDA Survey Lump Sum Participant Payment) Determination 2014

Summary

Paragraph 5H(12)(c) of the *Veterans' Entitlements Act 1986* (the Act) allows the Repatriation Commission to determine that an amount or class of amounts received by a person is an exempt lump sum for the purposes of the Act. The effect of this Determination is that a HILDA Survey Lump Sum Participant Payment, made to participants in the Household, Income and Labour Dynamics in Australia (HILDA) Survey by the Melbourne Institute of Applied Economics and Social Research (University of Melbourne), on behalf of the Department of Social Services (DSS), is an exempt lump sum under paragraph 5H(12)(c) of the Act.

This Determination revokes the earlier Determination, *Veterans Entitlements Income Exempt Lump Sum Determination No. 8 of 2001* (Federal Register of Legislative Instruments F2005B02314), which provided for a similar exemption for participants in the HILDA Survey, but for specific amounts of \$20 paid to an eligible person, and \$50 paid to an eligible household. These dollar amounts are no longer current. Current dollar amounts are listed on page 2.

This Determination allows for the modest "thank you" payment for participation in the HILDA Survey to continue to be exempt from the veterans' entitlements income test at the current and any future rate of payment.

Background

Under veterans' entitlement law, an income test is used to determine the rate at which an income support payment of service pension or income support supplement is payable to a person. An income amount earned, derived or received for a person's own use or benefit is generally assessable as income. However, some amounts that would otherwise be income are specifically exempted.

Paragraph 5H(12)(c) of the Act allows the Repatriation Commission to determine that an amount, or class of amounts, is an "exempt lump sum" for the purposes of the Act. An exempt lump sum is excluded from the definition of "ordinary income" under subsection 5H(1) of the Act, meaning the lump sum amount is not to be taken into account under the veterans' entitlements income test. The exemption of the HILDA Survey Lump Sum Participant Payment from the income assessment of a person eligible for an income support payment may beneficially impact that person's rate of payment.

The initial exemption of the HILDA Survey Lump Sum Participant Payment from the income test does not mean that any ongoing income generated by the lump sum is exempt from the veterans' entitlements income test, nor does

it mean that any asset produced from the lump sum is exempt from the veterans' entitlements assets test. This is consistent with the treatment of other lump sum payments exempted under paragraph 5H(12)(c) of the Act.

Household, Income and Labour Dynamics in Australia (HILDA) Survey

The HILDA Survey is a household-based panel study which began in 2001 that collects data on an annual basis on a wide range of topics falling within three broad areas:

- Income dynamics – with a particular focus on how households respond to policy changes aimed at improving financial incentives, and interactions between changes in family status and poverty;
- Labour market dynamics – with a focus on low-to-middle income households, female participation, and work to retirement transitions; and
- Family dynamics – focusing on family formation, well-being and separation, along with post-separation arrangements for children and links between income support and family formation and dissolution.

Interviews are conducted annually with adult members of each household. Participation is voluntary. The panel household members can be followed over time.

DSS relies on accurate research data (including data made available through the HILDA Survey) to inform its business decisions. Academics and other researchers can apply to use the HILDA general release datasets for their research. Information on the HILDA Survey is available on the internet at: <http://www.melbourneinstitute.com/hilda/>

The HILDA Survey was initiated, and is funded, by the Australian Government through DSS. Responsibility for the design and management of the HILDA Survey rests with the University of Melbourne.

HILDA Survey Lump Sum Participant Payment

The HILDA Survey Lump Sum Participant Payment is made by the University of Melbourne on behalf of DSS and is a one-off payment which is currently \$35 per individual participant and an additional \$35 per fully participating household (which is split between the household members). A single person household can receive both \$35 payments. The amounts are determined in negotiation between the University of Melbourne and DSS. An increase of around \$5 per payment is generally agreed every 3 or 4 years.

Effect of determination

This Determination is a legislative instrument.

Explanation of Provisions

Part 1 of the Determination states the name of the Determination, the commencing date, the revocation of the previous instrument, the defined terms, and the authorising provision within the Act.

Part 2 states that for the purpose of paragraph 5H(12)(c) of the Act a HILDA Survey Lump Sum Participant Payment is an exempt lump sum.

Consultation

Yes – Department of Social Services. A similar Determination has been prepared by the Department of Social Services in respect of income support payments under the *Social Security Act 1991*. The nature of the consultation was e-mail. Consultation with clients was not considered necessary as the Determination is only relevant to the administration of the Act. No other Government department or authority, business or community group is impacted in regard to social security payments.

Regulatory Impact Analysis

The Determination does not require a Regulatory Impact Statement. The Determination is not regulatory in nature, will not impact on business activity and will have no, or minimal, compliance costs or competition impact.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Veterans' Entitlements Income (Exempt Lump Sum – HILDA Survey Lump Sum Participant Payment) Determination 2014

The effect of the Determination is that a person who receives a HILDA Survey Lump Sum Participant Payment (HILDA Payment) will not have that HILDA Payment assessed as income under the veterans' entitlements law.

Human rights implications

The Determination engages the right to social security under Article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). The right to social security requires that a system be established under domestic law, and that public authorities must take responsibility for the effective administration of the system. The social security scheme must provide a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education.

The changes made by the Determination will operate beneficially as a HILDA Payment will not be taken into account when assessing a person's rate of income support payment under the veterans' entitlements income test. If the HILDA Payment is not exempted, a person in receipt of the HILDA Payment may have their rate of income support payment reduced.

The exemption of the HILDA Payment from the income test does not mean that any ongoing income generated by the lump sum is exempt from the veterans' entitlements income test, nor does it mean that any asset produced from the lump sum is exempt from the veterans' entitlements assets test. This is consistent with the treatment of other lump sum payments exempted under paragraph 5H(12)(c) of the Act.

The exemption provided by the Determination will ensure that receipt of a HILDA Payment will not be taken into account when assessing a person's income under the veterans' entitlements income test and is therefore consistent with the promotion of the right to social security.

Conclusion

This Determination supports a person's human right to social security.

Mark Harrigan, Senior Executive Band 1, Rehabilitation and Entitlements Policy Branch, as a delegate of the Repatriation Commission.