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## Legislative Instrument

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### **Pay as you go withholding - Variation and exemption of withholding requirements for certain payments made to religious practitioners**

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I, Steve Vesperman, Deputy Commissioner of Taxation, make this determination under section 15-15, subsection 16-153(6) and section 16-180 of Schedule 1 to the *Taxation Administration Act 1953* to meet the special circumstances of the class of cases described below.

This legislative Instrument repeals the following legislative instruments:

- Legislative Instrument No.F2006B00294 registered on 7 February 2006.
- Legislative Instrument No.F2006B00298 registered on 7 February 2006.
- Legislative Instrument No.F2006B00292 registered on 7 February 2006.
- Legislative Instrument No.F2006B00322 registered on 10 February 2006.
- Legislative Instrument No.F2006B00299 registered on 24 February 2006.

**Signed by DCT Steve Vesperman**  
Deputy Commissioner of Taxation  
4 February 2016

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#### **1. Name of instrument**

This instrument is the *Pay as you go withholding - Variation and exemption of withholding requirements for certain payments made to religious practitioners*.

#### **2. Commencement**

This instrument commences on the day after it is registered.

#### **3. Application**

This instrument applies to withholding payments that are made to a religious practitioner and are:

- covered by section 12-47 of Schedule 1 to the *Taxation Administration Act 1953*; and
- within the class of cases described below.

Class of cases

(a) For allowances made to religious practitioners as described below, provided:

- the payee is expected to incur expenses that may be able to be claimed as a tax deduction at least equal to the amount of the allowance,
- the payee is able to substantiate the tax deduction claimed, or the payee is not required to substantiate the claim because of a provision contained in Division 900 of the *Income Tax Assessment Act 1997*, and
- the amount and nature of the allowance is shown separately in the accounting records of the payer.

Allowances:

- i. Cents per kilometre car expense payments calculated using the approved rate for payments made up to 5000 business kilometres by applying the rate to the number of kilometres travelled. The rate is prescribed by regulation (under the *Income Tax Assessment Regulations 1997*).
- ii. Domestic or overseas travel allowance (excluding overseas accommodation allowance) involving an overnight absence from the payee's ordinary place of residence up to the reasonable allowances amount published in the annual ATO Determination relating to allowances.

(b) For payments made for locum services as described below:

- payments made by a religious institution to a religious practitioner for locum services performed for a period of not greater than two (2) days in a quarter. Previous services performed in the quarter count in determining whether the religious practitioner has performed locum services for a period of not greater than two (2) days in a quarter.

(c) For payments made by entities that are non-religious institutions as described below:

- payments made by an entity that is not a religious institution to a religious practitioner for work or services performed as a religious practitioner except for the performance of chaplaincy and/or counselling services; and
- payments made by an entity that is not a religious institution to a religious practitioner, for chaplaincy and/or counselling services, where the payment does not exceed the following amounts:

For payments made on or before 30 June 2016:

- where the entity pays the religious practitioner weekly: \$100; or
- where the entity pays the religious practitioner fortnightly: \$200; or
- where the entity pays the religious practitioner monthly: \$433.

For payments made on or after 1 July 2016:

- where the entity pays the religious practitioner weekly: \$150; or
- where the entity pays the religious practitioner fortnightly: \$300; or
- where the entity pays the religious practitioner monthly: \$650.

#### **4. Determination**

The amount to be withheld from payments covered by this instrument is varied to nil.

A payer of the payments listed in paragraph 3(c) is exempted from issuing a payment summary that would have ordinarily been required under sections 16-155 and 16-160 of Schedule 1 to the *Taxation Administration Act 1953* and they are not required to include these payments in their annual report, that would have ordinarily been required under subsection 16-153(2) of Schedule 1 to the *Taxation Administration Act 1953*.

#### **5. Definitions**

- 'Religious practitioner' takes its meaning from section 995-1 of the *Income Tax Assessment Act 1997*.
- 'Religious institution' is not a defined term and therefore takes on its ordinary meaning. For guidance, reference may be made to *Taxation Ruling TR 92/17*.
- For the purpose of this variation, 'locum services' include activities performed by a religious practitioner in relieving another religious practitioner of his or her duties.
- A quarter is defined in section 995-1 of the *Income Tax Assessment Act 1997* as a period of three months ending 31 March, 30 June, 30 September or 31 December.