



# Overseas Debtors Repayment Guidelines 2017

made under subsection 238-10(1) of the *Higher Education Support Act 2003*.

## Compilation No. 1

**Compilation date:** 1 July 2018

**Includes amendments up to:** *Higher Education (Overseas Debtor Repayment)  
Amendment and Repeal Instrument 2018*  
[F2018L00949]

Prepared by Department of Education and Training, Canberra

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## About this compilation

### **This compilation**

This is a compilation of the *Overseas Debtors Repayment Guidelines 2017* that shows the text of the law as amended and in force on 1 July 2018 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

### **Uncommenced amendments**

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### **Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### **Modifications**

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### **Self-repealing provisions**

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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## Part 1—Preliminary

### 1 Name

This instrument is the *Overseas Debtors Repayment Guidelines 2017*.

### 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

### 3 Authority

This instrument is made under the *Higher Education Support Act 2003*.

### 4 Definitions

Note: A number of expressions used in this instrument are defined in the Act.

- (1) In this instrument:

*Act* means the *Higher Education Support Act 2003*.

*ATO Occupation Code* means the *Salary and wage occupation codes 2018* published by the Australian Taxation Office in June 2018.

Note: In 2018, the *Salary and wage occupation codes 2018* was available at [www.ato.gov.au](http://www.ato.gov.au).

*foreign currency* means a currency other than Australian currency.

- (2) An expression used in this instrument that is also used in the *Income Tax Assessment Act 1997* has the same meaning as in that Act.

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## Part 2—Foreign-sourced income

### 5 Purpose

This Part sets out how to work out a person's foreign-sourced income for the 2016-17 income year and later income years.

Note: Foreign-sourced income is relevant to working out the person's assessed worldwide income for section 154-17 of the Act.

### 6 The 3 methods for working out a person's foreign-sourced income

- (1) The following are the methods for working out a person's foreign-sourced income for an income year:
  - (a) the simple self-assessment method (see section 7);
  - (b) the overseas assessed method (see section 8);
  - (c) the comprehensive tax-based assessment method (see section 9).

Note: Subsection 8(2) restricts when the overseas assessed method can be used.

- (2) The method to be used to work out the person's foreign-sourced income for the income year is the method that the person chooses, as stated in the notice given to the Commissioner under subsection 154-18(3) of the Act, relating to the person's income for the income year.
- (3) However, if the person does not choose one of the methods in that notice, the simple self-assessment method (see section 7) may be used to work out the person's foreign-sourced income for the income year.
- (4) The person cannot choose more than one of the methods for the same income year.

### 7 The simple self-assessment method

- (1) Under the simple self-assessment method, the person's foreign-sourced income for the income year is an amount equal to the difference between:
  - (a) the total amount of all the person's income for the income year, other than ordinary income or statutory income that has an Australian source; and
  - (b) the standard deduction for the income year for the occupation in which the person derived the most income (other than ordinary income or statutory income that has an Australian source) for the income year.
- (2) For paragraph (1)(b), the standard deduction for an occupation is:
  - (a) if the occupation has an occupation code listed in the ATO Occupation Code—the median ratio of work-related expenses to employment-related

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- income calculated by the Australian Taxation Office for the occupation with that occupation code; or
- (b) otherwise—nil.

## **8 The overseas assessed method**

- (1) Under the overseas assessed method, the person's foreign-sourced income for the income year is an amount equal to the person's income for taxation purposes according to the most recent assessment of the person's income, for a period of 12 months, by a taxation authority of a foreign country.
- (2) However, the overseas assessed method cannot be used to work out the person's foreign-sourced income for the income year if:
- (a) the period to which that most recent assessment relates does not overlap with the income year; or
  - (b) taxation authorities from different foreign countries have each made assessments of the person's income for periods of 12 months that overlap with the income year; or
  - (c) that most recent assessment has already been used to work out the person's foreign-sourced income for a previous income year.

## **9 The comprehensive tax-based assessment method**

Under the comprehensive tax-based assessment method, the person's foreign-sourced income for the income year is an amount equal to the difference between:

- (a) the total amount of all the person's income for the income year, other than ordinary income or statutory income that has an Australian source; and
- (b) the total amounts of the deductions that would be allowable under the income tax law if that income were assessable income.

## **10 Translation of foreign currency**

For the purposes of subsection 154-17(2) of the Act, convert an amount of a person's foreign-sourced income for an income year that is in a foreign currency by translating the foreign currency to Australian currency at the average exchange rate for the financial year most closely corresponding to the income year.

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## **Part 3—Notices to be given to the Commissioner**

### **11 Purpose**

This Part sets out matters relating to the notices that must be given to the Commissioner under section 154-18 of the Act.

### **12 Notices relating to leaving Australia**

- (1) A notice under subsection 154-18(1) of the Act relating to a person leaving Australia must contain:
  - (a) the person's name; and
  - (b) the person's date of birth; and
  - (c) the following details (to the extent they are known):
    - (i) the person's intended country of residence;
    - (ii) the person's contact details, including email address and telephone number.
- (2) For the purposes of paragraph 154-18(1)(b) of the Act, a person is not required to give a notice under subsection 154-18(1) of the Act relating to the person leaving Australia if:
  - (a) the person gave a notice under that subsection in relation to a previous departure from Australia; and
  - (b) since giving that notice, the person has not been an Australian resident.

### **13 Notices relating to absence from Australia**

A notice under subsection 154-18(2) of the Act relating to a person being outside Australia must contain:

- (a) the person's name; and
- (b) the person's date of birth; and
- (c) the person's country of residence; and
- (d) to the extent they are known, the person's contact details, including email address and telephone number.

### **14 Notices relating to income**

- (1) A notice under subsection 154-18(3) of the Act relating to a person's income for an income year must contain:
  - (a) the person's name; and
  - (b) the person's date of birth; and

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- (c) the person's country of residence; and
  - (d) the person's occupation; and
  - (e) the amount of the person's income (including foreign-sourced income) for the income year; and
  - (f) the method used to work out that foreign-sourced income; and
  - (g) if the overseas assessed method was used—the person's identification number used for tax purposes by the taxation authority of a foreign country that made the assessment of the person's income.

(2) However, paragraphs (1)(d) to (g) do not apply if:

- (a) the person's income (including foreign-sourced income) for the income year does not exceed 25% of the minimum repayment income for the income year; and
- (b) the notice includes a declaration to that effect.

Note: *Minimum repayment income* is defined in section 154-10 of the Act.

## 15 Approved forms

This Part does not affect the Commissioner's power under section 388-50 in Schedule 1 to the *Taxation Administration Act 1953* to require additional content to be included in the approved form of a notice under section 154-18 o



## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

**Endnote 2—Abbreviation key**

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	
exp = expires/expired or ceases/ceased to have effect	reloc = relocated
F = Federal Register of Legislation	renum = renumbered
gaz = gazette	rep = repealed
LA = <i>Legislation Act 2003</i>	rs = repealed and substituted
LIA = <i>Legislative Instruments Act 2003</i>	s = section(s)/subsection(s)
(md) = misdescribed amendment can be given effect	Sch = Schedule(s)
(md not incorp) = misdescribed amendment cannot be given effect	Sdiv = Subdivision(s)
mod = modified/modification	SLI = Select Legislative Instrument
No. = Number(s)	SR = Statutory Rules
	Sub-Ch = Sub-Chapter(s)
	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnote 3—Legislation history

## Endnote 3—Legislation history

<b>Name</b>	<b>Registration</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
<i>Overseas Debtors Repayment Guidelines 2017</i>	24 Feb 2017 (See F2017L00157)	25 Feb 2017	-
<i>Higher Education (Overseas Debtor Repayment) Amendment and Repeal Instrument 2018</i>	29 June 2018 (see F2018L00949)	01 July 2018	Sch 1, c 4

**Endnote 4—Amendment history**

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<b>Provision affected</b>	<b>How affected</b>
r. 4	ad def F2018L00949
r. 7(1)(b)	am F2018L00949
r. 7(2)	rs F2018L00949

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