



## **Overseas Debtors Repayment Guidelines 2017**

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I, Simon Birmingham, Minister for Education and Training, make the following guidelines.

Dated 17 February 2017

Simon Birmingham  
Minister for Education and Training

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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Note: This table relates only to the provisions of this instrument as originally made.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*.

*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.

## 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, determined by the Minister under subsection (2), 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) The Minister may, by legislative instrument, determine for an income year the standard deduction, or how to work out the standard deduction, for an occupation specified in the determination.

### 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.

## **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
  - (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 of the Act.