

EXPLANATORY STATEMENT

Social Security (Exempt Lump Sum – South Australia Taxi Industry Assistance Package Payment) Determination 2017

Summary

Paragraph 8(11)(d) of the *Social Security Act 1991* (the Act) allows the Secretary of the Department of Social Services (DSS) 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 South Australia Taxi Industry Assistance Package Payment is an exempt lump sum under paragraph 8(11)(d) of the Act.

Background

Under social security law, an income test is used to determine a person's eligibility for a social security payment and, if they are eligible, the rate of a social security payment that is payable. 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 8(11)(d) of the Act allows the DSS Secretary 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 8(1) of the Act, meaning the lump sum amount is not to be taken into account under the social security income test.

In July 2016, South Australia introduced a new regulatory framework for point to point passenger transport to protect customer and driver safety, increase customer choice and remove regulatory restrictions to allow responsive and innovative point to point passenger transport services. The South Australian Government Department of Planning, Transport and Infrastructure introduced Taxi Industry Assistance Package payments to provide a one-off ex-gratia lump sum payment to assist metropolitan Adelaide taxi licence holders and lessees offset any impact of the new regulatory framework. Assistance packages will not be provided to access (wheelchair), country South Australian or standby taxi plates.

This Determination provides that a payment made by the South Australian Government Department of Planning, Transport and Infrastructure as a Taxi Industry Assistance Package Payment is an exempt lump sum for the purpose of paragraph 8(11)(d) of the Act.

The effect of this Determination is that such a payment will not be regarded as income under the Act, so that if a social security recipient receives such a payment, it will be exempt from the social security income test.

Explanation of Provisions

Section 1 of the Determination states the name of the Determination.

Section 2 provides that the Determination commences on 26 July 2017. This Determination has retrospective effect, but it is beneficial in nature so does not adversely impact on any individual.

Section 3 provides that the authority for making this Determination is paragraph 8(11)(d) of the Act.

Section 4 contains definitions of certain terms used in the Determination.

Section 5 specifies that a Taxi Industry Assistance Package Payment made by the South Australian Government Department of Planning, Transport and Infrastructure to a holder or lessee of a metropolitan Adelaide taxi licence as at 12 April 2016, is an exempt lump sum for the purposes of paragraph 8(11)(d) of the Act.

Eligible taxi licence holders will be able to apply for an assistance package of \$30,000 for each taxi licence they own. Taxi licence lessees will be eligible for an assistance package calculated at \$50 per week for the remainder of their lease up to a maximum of 11 months. Such an amount will be regarded as an exempt lump sum from the date the payment is received by the person.

Consultation

This determination was made at the request of the South Australian Government Department of Planning, Transport and Infrastructure.

The Department of Veterans' Affairs and the Department of Agriculture and Water Resources were consulted.

This determination will be beneficial to persons affected as it exempts Taxi Industry Assistance Package payments made by the South Australian Government Department of Planning, Transport and Infrastructure from the social security income test. As a result, public consultation was considered unnecessary.

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*

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The effect of the Determination is that a person who receives a Taxi Industry Assistance Package Payment from the South Australian Government Department of Planning, Transport and Infrastructure will not have that payment assessed as income under the social security law.

Human rights implications

This Determination is made under Section 8(11) of the *Social Security Act 1991* (the Act) and determines that the Taxi Industry Assistance Package Payment from the South Australian Government Department of Planning, Transport and Infrastructure will not be assessed under the social security income test for the purposes of the Act.

The Determination ensures that people receiving Taxi Industry Assistance Package Payments not have these payments assessed as income for social security purposes.

The Determination engages the right to social security.

The right to social security

The Determination will operate beneficially as a Taxi Industry Assistance Package Payment from the South Australian Government Department of Planning, Transport and Infrastructure will not be taken into account when assessing a person's eligibility for, or rate of social security entitlements under the social security income test. If the Taxi Industry Assistance Package Payment was not exempted, a person in receipt of the payment may not be eligible for a social security payment or, if they are eligible, their rate of payment might be reduced. The Determination is therefore consistent with the promotion of the right to social security.

The exemption of the Taxi Industry Assistance Package Payment from the income test on receipt does not alter the fact that any ongoing income generated by the lump sum is counted under the income test, and any assessable asset produced from the lump sum is counted under the social security assets test. This is consistent with the treatment of other lump sum payments exempted under paragraph 8(11)(d) of the Act.

Conclusion

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

Anita Davis, Branch Manager, Payability and Integrity Branch, as a delegate of the Secretary of the Department of Social Services.