



Explanatory Statement

Taxation Administration – Single Touch Payroll – Spent Instruments Repeal Determination 2022

General outline of instrument

1. This legislative instrument is made under sections 16-153, 16-180 and 389-10 of Schedule 1 to the *Taxation Administration Act 1953*.
2. This instrument repeals six legislative instruments relating to Single Touch Payroll (STP) reporting that are no longer required as they have no ongoing operation.
3. The instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.
4. Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws) the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Date of effect

5. This instrument commences on the day after it is registered on the Federal Register of Legislation.

Automatic repeal

6. This instrument will be repealed by section 48A (automatic repeal of amending and repealing instruments) of the *Legislation Act 2003* on the end of the last day this instrument may be disallowed in a House of the Parliament (see section 42 (disallowance) of the *Legislation Act 2003*).

Effect of this instrument

7. This instrument will repeal redundant and spent legislative instruments relating to Single Touch Payroll reporting.

Compliance cost assessment

8. Compliance cost impact: Minor – There will be no additional regulatory impacts as the instrument is minor and machinery in nature.

Background

9. Division 389 of Schedule 1 to the *Taxation Administration Act 1953* provides for the reporting through STP of certain payments within the Pay As You Go (PAYG) withholding system.

10. This replaced the reporting that had previously been required via the payment summary and annual reporting mechanism provided for by Division 16 of Schedule 1 to the *Taxation Administration Act 1953*.

11. Payers affected have transitioned from the previous payment summary and annual reporting mechanism to STP reporting gradually (from the 2017–18 to 2021–22 financial years):

- (a) STP reporting commenced on a voluntary basis for a small number of payers in the 2017–18 financial year
- (b) mandatory reporting for substantial employers (those with 20 or more employees) generally commenced in the 2018–19 financial year
- (c) mandatory reporting for remaining employers generally commenced in the 2019–20 financial year.

12. To support this transition, the Commissioner of Taxation prescribed certain matters by legislative instrument in relation to defined financial years, including additional exemptions for various classes of payers. These legislative instruments are being repealed by this instrument as they have no ongoing operation.

13. The repeal of these instruments does not affect their prior operation in the relevant financial years, due to the operation of section 13 of the *Legislation Act 2003* and section 7 of the *Acts Interpretation Act 1901*.

14. The instruments being repealed by this instrument are:

- (a) ***PAYG Withholding annual reporting exemptions: Single Touch Payroll optional year (F2018L00494)***

This instrument provided an exemption for entities that were voluntary early adopters of STP reporting from having to provide payment summaries and annual reports in the 2017–18 financial year only. This instrument has no ongoing operation. Under section 389-20 of Schedule 1 to the *Taxation Administration Act 1953*, an entity is not required to provide payment summaries or annual reports if they report amounts under the STP reporting framework.

- (b) ***Taxation Administration – Single Touch Payroll – Exemption for Employers from Reporting Contribution Amounts Paid to a Superannuation Fund (F2019L00121)***

As originally enacted, Division 389 of Schedule 1 to the *Taxation Administration Act 1953* included a requirement to report contribution amounts paid to a superannuation fund through STP. This instrument provided an exemption from that requirement for all employers following an announcement by Government that the requirement would be repealed (which occurred in 2019 on commencement of Schedule 4 to the *Treasury Laws Amendment (2018 Measures No.4) Act 2019*). As the legislation imposing the obligation has been repealed, this instrument has no ongoing operation.

- (c) ***Taxation Administration – Single Touch Payroll – Exemption for Insolvency Practitioners and Employers subject to their appointment (F2019L00440)***

This instrument exempted insolvency practitioners and employers subject to their appointment from STP reporting for the 2018–19 financial year only. This instrument has no continuing operation, and payers who were exempt from STP reporting as a result of this instrument have been required to report through STP since 1 July 2019.

- (d) ***Taxation Administration – Single Touch Payroll – Exemptions for payments made to Members by Portable Long Service Leave and Portable Redundancy Scheme Providers (F2019L00457)***

This instrument provided an exemption from STP reporting for portable long service leave and redundancy scheme providers in relation the payments made to scheme

members during the 2018–19 and 2019–20 financial years only. This instrument has no continuing operation as it does not apply to any subsequent financial years.

- (e) ***Taxation Administration – Single Touch Payroll – 2020–21 year Portable Long Service Leave and Portable Redundancy Scheme Providers Exemption 2020 (F2020L00800)***

This instrument provided an exemption from STP reporting to portable long service leave and redundancy scheme providers in relation the payments made to scheme members for the 2020-21 financial year only. This instrument has no continuing operation, and payers who were exempt from STP reporting as a result of the instrument have been required to report through STP since 1 July 2021.

- (f) ***Taxation Administration – Single Touch Payroll – 2019–20 and 2020–21 Income Years Closely Held Payees Exemption 2021 (F2021L01037)***

This instrument provided an exemption from STP reporting for payers with closely held payees for the 2019–20 and 2020–21 years only. This instrument has no continuing operation, and payers who were exempt from STP reporting as a result of the instrument have been required to report through STP from 1 July 2021.

Consultation

15. Subsection 17(1) of the *Legislation Act 2003* requires that the Commissioner is satisfied that appropriate and reasonably practicable consultation has been undertaken before a legislative instrument is made.

16. The draft determination and draft explanatory statement were published on the ATO Legal Database seeking feedback and comments on 1 March 2022 for a period of four weeks. Notice of the draft determination was also published on ato.gov.au and subscription alerts were issued.

17. Tax professionals and tax associations regularly review both the Legal database and ato.gov.au and further promulgate advice of new drafts issued in their internal news bulletins.

18. The major legal publishers also publish news of the drafts in their key tax alerting services – such as the *Weekly Tax Bulletin* (published by Thomson Reuters Australia) and *Tax Tracker* and *TaxWeek* (published by CCH Australia).

19. No submissions on the draft determination and explanatory statement were received.

Legislative references

Acts Interpretation Act 1901

Human Rights (Parliamentary Scrutiny) Act 2011

Legislation Act 2003

Taxation Administration Act 1953

Treasury Laws Amendment (2018 Measures No.4) Act 2019

Statement of compatibility with Human Rights

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

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This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the legislative instrument

This instrument repeals six legislative instruments relating to Single Touch Payroll reporting that are no longer required as they have no ongoing operation.

Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms as it only operates to repeal existing instruments relating to Single Touch Payroll reporting which are redundant or spent.

Conclusion

This legislative instrument is compatible with human rights as it does not raise any human rights issues.