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Australian Taxation Office

Eligible termination payments – a practical guide for employers

This information will help if you need to pay a lump sum payment, called an eligible termination payment (ETP), when an employee stops working for you.

In May 2006, the Treasurer announced major reforms to simplify the superannuation system. Part of this is a proposal to abolish reasonable benefit limits. If passed by Parliament, this will apply from 1 July 2007. RBL reporting requirements for 2006–07 remain unchanged. This guide will be revised if the simplification proposals are enacted.

For more information about ETPs, visit **www.ato.gov.au/super**

MORE INFORMATION

For further information on this topic:

- visit our website at **www.ato.gov.au/super**
- visit the eligible termination payment online calculator which is available on our website
- phone our information line on **13 10 20** between 8.00am and 6.00pm, Monday to Friday
- obtain a fax by phoning **13 28 60**, or
- write to:
  Australian Taxation Office
  PO Box 277
  WORLD TRADE CENTRE VIC 8005

If you do not speak English well and want to talk to a tax officer, phone the Translating and Interpreting Service on **13 14 50** for help with your call.

If you have a hearing or speech impairment and have access to appropriate TTY or modem equipment, phone **13 36 77**. If you do not have access to TTY or modem equipment, phone the Speech to Speech Relay Service on **1300 555 727**.

HOW TO USE 'NAT' NUMBERS

The NAT number is a unique national identifying number we give each of our publications. You can use this number to search for publications on our website and to quote the number over the phone when requesting a publication to be sent to you.

OUR COMMITMENT TO YOU

We are committed to providing you with advice and information you can rely on.

We make every effort to ensure that our advice and information is correct. If you follow advice in this publication and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we must still apply the law correctly. If that means you owe us money, we must ask you to pay it. However, we will not charge you a penalty or interest if you acted reasonably and in good faith.

If you make an honest mistake when you try to follow our advice and you owe us money as a result, we will not charge you a penalty. However, we will ask you to pay the money, and we may also charge you interest.

If correcting the mistake means we owe you money, we will pay it to you. We will also pay you any interest you are entitled to.

If you feel this publication does not fully cover your circumstances, please seek help from the Tax Office or a professional adviser.

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DEFINITIONS

This list of definitions explains the terms we use in this guide.

Agent
An agent may be an accredited financial planner, a tax agent, an accountant or an authorised representative.

Assessable amount
For ETPs, this is the amount of an ETP cash payment that a person must include in their income tax return.

Bona fide redundancy
Bona fide redundancy has the following characteristics:
- the employee must have been dismissed from a job, not left voluntarily
- the employee must have been made redundant (their work has ceased or their workplace has been relocated),
- the dismissal must have occurred before the employee's 65th birthday or their normal specified date of termination, and
- at the termination time, there was no agreement between the employee and the employer (or the employer and another) to later employ the employee.

Contribution
Money that is put into superannuation savings usually by the employer or another person on someone's behalf (contributions paid by a person are referred to as personal contributions).

Eligible service period
This is usually the period of time between the day the employment started to the day the employment ended. It is used to work out how much of someone's eligible termination payment is linked to their period of employment before 1 July 1983 and their period of employment after 30 June 1983.

Eligible termination payment (ETP)
A lump sum benefit (payment) made by an employer to an employee, as a result of the termination of employment or after the death of the person who was an employee.

Employee
A person who receives salary or wages.

Employer
A person (or group) who pays salary or wages.

Golden handshake
An ETP which is a voluntary payment made to an employee on retirement or termination of employment.

Low rate threshold
The limit for lower tax treatment of the post-June 1983 component of an ETP. The low rate threshold is only applicable for people 55 years of age or over at the date of payment. It is a lifetime limit that is indexed each financial year.

Pay as you go (PAYG)
This is a single, integrated system for reporting and paying withholding amounts and tax on business and investment income.

Reasonable benefit limits (RBL)
The maximum amount of retirement and termination of employment benefits a person can receive over their lifetime at concessional (reduced) tax rates.

Roll over
Is another term for when an employee chooses to put an ETP directly into superannuation savings instead of receiving it in cash.

Termination of employment
Can occur when an employee retires, when an employee voluntarily stops working for an employer, when an employer dismisses an employee, or by mutual agreement. A termination of employment also occurs in the event of the employee's death.

ABOUT THIS GUIDE

As an employer, there are procedures you need to follow when paying common types of ETPs. There is a worksheet (NAT 12567) available at the back of this guide and on our website at **www.ato.gov.au** – search for ‘12567’. It will help you calculate the common ETP components.

Common types of ETPs have two components that are linked to an employee’s period of employment. See the section ‘Calculating eligible termination payment components’ which starts on page 5.

For more information visit the eligible termination payment calculator on our website at **www.ato.gov.au/super**

Less common types of ETPs include a tax free amount as well as one or more of the common ETP components. Special rules apply to these part tax free payments. Refer to the following ETP guides for employers:

- *Eligible termination payments – a guide for employers on permanent disability of an employee* (NAT 2703)
- *Eligible termination payments – a guide for employers on redundancy of an employee* (NAT 2702), and
- *Eligible termination payments – a guide for employers on the death of an employee* (NAT 2704).

The procedures in this guide are not for an ETP that is a capital gains exempt payment. These payments are for owners of small businesses using the proceeds from the sale of certain business assets for their retirement.

Further information and a fact sheet called *Capital gains tax retirement exemption – rollovers* (NAT 5638) is available by contacting us using one of the methods in the ‘More information’ section at the front of this guide.

A QUICK LOOK AT THE PAYMENT PROCESS

The process for paying ETPs has three separate stages:

ETP?

- You decide whether the lump sum you are paying is an ETP

YES

Pre-payment stage

- You calculate ETP components and eligible service period
- You give your employees payment choice

Rollover payment stage

- You roll over some or all of the ETP to the employee’s fund

Cash payment stage

- You pay the ETP in cash to the employee
- You report cash payments to the Tax Office

You keep certain records

DECIDING WHETHER THE PAYMENT IS AN ELIGIBLE TERMINATION PAYMENT

You must first decide if any part of the lump sum payment is an ETP. Only certain payments paid to an employee on termination of employment are ETPs.

The table below will help you decide if any part of a lump sum payment is an ETP. These payments are taxed differently from other kinds of payments you make when someone stops working for you.

If your reason for making a payment is not listed, you can ask for help from the Tax Office.

TABLE: These are the common payments paid to an employee when they stop working for you – some are ETPs and some are not.

Eligible termination payments	NOT eligible termination payments
The employer payments listed here are payments paid because of termination of employment and are ETPs: ■ unused rostered days off (RDOs) ■ payments in lieu of notice (in place of giving an employee earlier notice of their termination) ■ unused sick leave ■ a gratuity or golden handshake ■ compensation for loss of job ■ compensation for wrongful dismissal ■ because of an employee's invalidity payments (permanent disability, other than compensation for personal injury) ■ bona fide redundancy and approved early retirement scheme payments over the tax free amount, and ■ certain payments after the death of an employee.	The employer payments listed here may be paid on termination of employment but are not ETPs: ■ unused annual leave and/or leave loading ■ unused long service leave ■ salary, wages and allowances owing to an employee for work done or leave already taken ■ compensation for personal injury ■ payment for restraint of trade ■ an advance or loan, and ■ bona fide redundancy and approved early retirement scheme payments that are within the tax free amount (if the payment is higher than the tax free amount, the excess is an eligible termination payment). You can get more information about these payments from the Tax Office

! Bona fide redundancy and approved early retirement scheme payments are tax free up to the limit calculated by a set formula. The amount paid over this limit is the excessive amount which is an ETP. The amount paid up to this limit is not an ETP. The tax free limit changes on 1 July each year.

THERE MUST BE A TERMINATION OF EMPLOYMENT

'Termination of employment' can occur when:

- an employee voluntarily stops working for you
- you dismiss an employee, or
- both you and the employee mutually agree for the job to be terminated.

A payment made because of the death of an employee is also treated under tax laws as a termination of employment.

Termination of employment also means termination of the holding of an office. This is a position which exists independently of the person who fills it, for example, being a director of a company is the holding of an office. A change of position from a bank manager to a security guard while continuing to work for the same employer is an example of a genuine termination of the holding of an office.

It's generally not a genuine termination of employment if someone has just changed their working hours. An example may be going from full-time to part-time or casual hours. If you are unsure whether someone has genuinely stopped working for you, contact us using one of the methods in the 'More information' section at the front of this guide.

CALCULATING ELIGIBLE TERMINATION PAYMENT COMPONENTS

For most ETPs you will only need to calculate one, two or three components. This section helps you calculate the common ETP components and the eligible service period.

A quick way to calculate the ETP components and the eligible service period is to use the eligible termination payment calculator for employers and superannuation funds which is available on our website at **www.ato.gov.au** by searching for 'calculator'.

The worksheet (NAT12567) included at the back of this guide will help you calculate the common ETP components. Or you can contact us using one of the methods in the 'More information' section at the front of this guide.

Common components		Less common
Pre-July 1983	**Post-July 1983 – untaxed element**	**Post-June 1994 invalidity**
If employment started before 1 July 1983	All employer ETPs have this component	(Permanent disability)
⟵ period of employment ⟶		future employment period ⟶

ABOUT THE ELIGIBLE TERMINATION PAYMENT COMPONENTS

The pre-July 1983 component and post-June 1983 – untaxed element

These two components are linked to your employee's period of employment. An ETP may have one or both of these components. The ETP will **always** have a post-June 1983 – untaxed element because your employee will have been employed during some period after 30 June 1983. This component is called an 'untaxed element' because it is not taxed until the ETP is paid to your employee.

The post-June 1994 invalidity component

An ETP may have this component when the ETP is paid to an employee who is leaving your employment early because of invalidity (a permanent disability). 'Early' means before the employee would normally retire because of age or period of service (employment). '1994' refers to the date the law changed to make this part of an ETP tax free.

Part A

Calculate the period of employment

An employee's period of employment is called an 'eligible service period'. You need to work out the number of days in the employee's eligible service period before you can calculate the ETP components.

What days are included in the eligible service period?

The eligible service period is the period of time the employee worked for you either on a part-time, casual or full-time basis. It is the number of calendar days from the date the employee started working for you to the date the employee stopped working for you. The total number of days includes weekends, public holidays and periods of annual leave and long service leave. Usually, it **does not** include periods of leave without pay.

Generally the eligible service period is the period of the employee's most recent continuous service with you. If your employee has **broken periods of employment** (for example, leave without pay or being re-hired after resigning), you need to add up the periods of service that apply to the payment. The eligible termination payment calculator can accommodate up to four broken periods of employment.

For more information visit the eligible termination payment calculator on our website at **www.ato.gov.au**

Where an ETP is made because of the termination of part-time employment, the eligible service period includes the number of whole days in any period of employment to which the payment relates. For example, if a person was employed for 20 hours a week over a period of 10 years, the eligible service period would be 10 years. That would apply whether the person spread the 20 hours work over five days each week or only over two days.

EXAMPLE 1: Calculating an eligible service period

Trent started working for *Ace Textiles* on 7 March 1980 and terminated employment on 15 August 2004. Trent's employer decided to offer Trent a $20,000 'golden handshake' ETP payment.

Step 1: Number of days before 1 July 1983
Only use this step if employment started before 1 July 1983.

First determine the number of days of whole years from date employment commenced to 30 June 1983 (include 30 June).

3	years at 365 days	=	1,095	days
	Add one day for each whole year which includes 29 February	=	0	days
	Add days in the part year ended	=	116	days
	Total number of days before 1 July 1983	=	1,211	days

There are no whole leap years at Step 1 as Trent's eligible service period commenced after 29 February 1980 (the only leap year in the period).

Step 2: Number of days after 30 June 1983
Complete this step for each payment. First determine the number of whole years from 1 July 1983, or the date employment commenced if this is after 1 July 1983 (include the termination date).

21	years at 365 days	=	7,665	days
	Add one day for each whole year which includes 29 February	=	6	days
	Add days in the part year ended	=	46	days
	Total number of days after 30 June 1983	=	7,717	days

Step 3: Total days in eligible service period
Step 1 days (if any) + Step 2 days = 8,928 days

EXAMPLE 2: Eligible service period with broken periods of employment

Selina started working for *Bright Electric* on 1 July 1978. She left to study overseas from 5 December 1982 to 2 January 1987. When she returned she rejoined *Bright Electric*. Selina is now retiring and will leave their employment on 30 June 2004.

Bright Electric is paying Selina a 'golden handshake' payment of two weeks wages for each year of service. *Bright Electric* has decided to count the service period before Selina's overseas studies when calculating the retirement payment. The number of days in the two service periods are added together.

The eligible service period for the ETP is the number of calendar days from 1 July 1978 to 5 December 1982, plus the number of calendar days from 2 January 1987 to 30 June 2004.

01/07/78 to 05/12/82	1,619 days
02/01/87 to 30/06/04	6,390 days
Total eligible service period is:	8,009 days

Part B

Calculate the components using the eligible service period

! The components of an ETP must be calculated in this order:

1. Post-June 1994 invalidity component (if any).
2. Pre-July 1983 component (if any).
3. Post-June 1983 – untaxed element.

If you want to calculate each component without using the worksheet, you can use the following formulas:

$$\text{The pre-July 1983} = \left(\text{The ETP amount} - \text{Invalidity component (if any)}\right) \times \frac{\text{eligible service period days before 1 July 1983}}{\text{total eligible service period days}}$$

$$\text{The post-June 1983 – untaxed element} = \text{The ETP amount} - \text{Invalidity component (if any)} - \text{Pre-July 1983 component}$$

The ETP amount will be:

- **at the start** – the gross amount of the ETP before payment
- **for rollover payments** – the amount of the rollover payment of each rollover, and
- **for cash payments** – the amount of the cash payments.

The eligible termination payment calculator can calculate the pre-July 1983 and post-June 1983 components if you enter the start and end dates of an employee's eligible service period. The calculator can also accommodate up to four broken periods of service for an employee.

Refer to *Eligible termination payments – a guide for employers on permanent disability of an employee* (NAT 2703) to see how to calculate the post-June 1994 invalidity component. You can get a copy by contacting us using one of the methods in the 'More information' section at the front of this guide.

EXAMPLE 3: Calculating the ETP components

Using Trent's details from example 1, the **pre-July 1983 component and post-June 1983 – untaxed element** calculations are:

Step 4: Pre-July 1983 component
Only use this step if employment started before 1 July 1983.

$ETP amount × (Step 1 days / Step 3 days)

$ 20,000 × 1,211 ÷ 8,928

Amount of the pre-July 1983 component $ 2,712.81

Step 5: Post-June 1983 – untaxed element
$ETP amount less pre-July 1983 (Step 4)

$ 20,000 less $ 2,712.81 = 17,287.19

GIVING YOUR EMPLOYEE A ROLLOVER PAYMENT CHOICE

Before you pay an ETP, you need to give your employee, except in certain cases listed below, an ETP pre–payment statement. This is to ensure that the employee has the opportunity to decide to roll the ETP over into a superannuation fund for their retirement or to be paid in cash.

You do not have to give an ETP pre-payment statement to your employee if:

- the payment is a death benefit (which cannot be rolled over)
- you have received the authority and sufficient instructions on how to make the payment from the employee, or
- the gross ETP is $5,000.

If you do give your employee an ETP pre-payment statement or your employee provides you with payment directions then make the payment following your employee's payment instructions (see the 'Paying an eligible termination payment to a superannuation fund' on page 10 and 'Paying an eligible termination payment in cash' on page 11 in this guide). If you do not receive any payment instructions, follow your award, workplace agreement, or your workplace policy (if the employee has agreed to the policy) and pay the ETP.

EXAMPLE 4: Following an employee's payment instructions

You want to pay your employee his ETP of $4,500. Your employee gives you his payment instructions:

'roll over all of my ETP into my fund,
***Jolly Good Fund*,**
12 Cross Street,
SYDNEY NSW 2000'.

You must follow these payment instructions.

The section 'Paying an eligible termination payment to a superannuation fund' on page 10 explains what you need to do.

ETP pre-payment statement

There is no compulsory tax form that you and your employee need to use. You can develop your own form to give to your employee. You can use an electronic form or another format, compatible with your business practices.

If you fail to give a pre-payment statement to an employee as required a penalty may apply.

Prescribed information

This is the minimum information an employer needs to give to an employee before paying an ETP. It includes showing the ETP components. It must also show the amount that can be rolled over or taken in cash. This is important because different tax rules apply to each component. If you provide all the information that is set out in our model statement then you will have covered all the prescribed information. This is the *ETP pre-payment statement – employer's payment statement to an employee* (NAT 2668).

You can give this information based on an expected payment date and calculate the ETP using that date. You do not have to show an amount if it is zero.

You give the ETP pre-payment statement to your employee, making sure you include a request for payment instructions to be returned within **30** days, or another reasonable period. Sign and date the statement on the day you give it to your employee. Remember, your employee may need time to seek financial advice.

Once you receive payment instructions from your employee (or their agent), you pay the ETP following those instructions.

Following payment instructions

Your employee's payment instructions must include enough information for you to make the payment correctly. The instructions should give you enough information to know the amounts to be paid in cash and amounts to be rolled over and where to send any rollover payments.

You must follow an employee's instructions for the payment or rollover of their ETP, unless the payment instructions require you to breach a law, or a legal agreement between you and the employee. Your employee can use the 'model' ETP pre-payment statement as a guide when giving you their payment instructions.

A penalty may apply if you fail to follow your employee's payment instructions.

EXAMPLE 5: Giving an employee an *ETP pre-payment statement* (NAT 2668)

Continuing with examples 1 and 3 where the ETP is more than $5,000 – *Ace Textiles* must give an *ETP pre-payment statement* to Trent, before paying the ETP. Remember, this is compulsory unless Trent has already given *Ace Textiles* payment instructions.

Eligible service period	
Date started	07 / 03 / 1980
Number of days before 1 July 1983	= 1,211
Number of days after 30 June 1983	= 7,717
Components of the ETP payment	
Pre-July 1983 component	$ 2,712.81
Post-June 1983 **untaxed** element	$ 17,287.19
Post-June 1994 invalidity component	$
Gross ETP payment	$ 20,000
Employer Signature	employer signature here
Date the statement is issued to the employee	08 / 07 / 2004
Employee is to return instructions by	07 / 08 / 2004

EXAMPLE 6: Receiving an employee's payment instructions

Continuing with examples 1, 3 and 5, Trent has instructed that $10,000 of his ETP is to be rolled over to a fund and $10,000 is to be paid in cash.

1. Cash amount

Pay me a gross cash amount of: $ $10,000.00

2. Roll-over payment

If you want to roll-over parts of your payment to different funds you will need to provide instructions to your payer for each roll-over payment to each fund. You can photocopy this form to do this.

Roll-over my payment to this fund (full name of fund)

AML ADF No. 1 Fund

The fund's address

40 Brown St

Adelaide

State S.A. Postcode 5000

Roll-over to this fund a total amount of: $ $10,000.00

Ace Textiles needs to pay the ETP following steps 4 and 5 above.

PAYING THE ELIGIBLE TERMINATION PAYMENT TO A SUPERANNUATION FUND

Where an employee gives you payment instructions to roll over the full amount or a part of the ETP to one or more funds, you must give each fund certain information for each rollover payment.

The worksheet (NAT 12567) included at the back of this guide will help you calculate the common ETP components of a rollover payment. If you have calculated the ETP components as outlined in the section 'Giving your employee a rollover payment choice' on page 8, you will need to re-calculate the components only when **part** of the ETP is rolled over and **part** of the ETP is paid in cash or the termination of employment date changes.

- Calculate the components of each rollover payment.
- Pay each rollover payment to each fund listed in your employee's payment instructions.
- Give each fund an ETP rollover statement within **seven** days of making the rollover payment. Give your employee a copy of the statements within 30 days. The statement must contain 'prescribed information' about the rollover payment to each fund. Sign and date the statement on the day you issue it to the fund.

AN ELIGIBLE TERMINATION PAYMENT ROLLOVER STATEMENT

There is no compulsory tax form for giving 'prescribed information' but you can use an *ETP rollover statement – industry standard for employers* (NAT 2659). You can give the fund an ETP rollover statement in electronic or other formats compatible with your business practices.

PRESCRIBED INFORMATION

There is also minimum information you need to give to a fund when paying a rollover payment for an employee. It includes showing the ETP components because the fund needs this information for tax and retirement savings purposes. You will need to include an employee's authorised agent details if the employee asks you to do this. Amounts that are zero do not have to be shown.

You can send the rollover payment and the ETP rollover statement to the employee's agent (for the agent to forward the payment and statement to the fund) if your employee gives you authority to do so. Cheques must be payable to the fund, not your employee or your employee's agent.

Give a copy of the ETP rollover statement to your employee within **30** days of the rollover payment.

EXAMPLE 7: Giving an *etp roll-over statement* (NAT 2659) to a fund

Continuing with examples 1, 3, 5 and 6, *Ace Textiles* must give an ***ETP roll-over statement*** to the fund listed in Trent's payment instructions. *Ace Textiles* can use the worksheet to calculate the components of the roll-over payment. There is no need to calculate the eligible service period again as this period has not changed since *Ace Textiles* filled in the *ETP pre-payment statement*.

Step 4: Pre-July 1983 component
Only use this step if employment started before 1 July 1983.

$ETP amount × (Step 1 days / Step 3 days)

$ 10,000 × 1,211 ÷ 8,928

Amount of the pre-July 1983 component $ 1,356.41

Step 5: Post-June 1983 – untaxed element
$ETP amount less pre-July 1983 (Step 4)

$ 10,000 less $ 1,356.41 = 8,643.59

ETP roll-over statement extract

Section 3 – Roll-over payment details

ETP components

Pre-July 1983 component	$ 1,356.41
Post-June 1983 – **untaxed** element	$ 8,643.59
Post-June 1994 invalidity component	$
Gross amount of this roll-over	$ 10,000

Eligible service period

Date started	07 / 03 / 1980
Number of days before 1 July 1983	1,211
Number of days after 30 June 1983	7,717

Do not withhold any amounts from a payment which is rolled over

You must not send your employee's tax file number with other information you are sending to a superannuation fund. It is unlawful to do so.

PAYING AN ELIGIBLE TERMINATION PAYMENT IN CASH

An ETP is paid in cash when:

- your employee has instructed you to pay part or all of the ETP in cash, or
- your employee has not provided instructions and the amount of the ETP is $5,000 or less.

As an employer, you must give an *ETP payment summary – payer to complete* (NAT 2605) if you are paying an ETP in cash.

The worksheet (NAT 12567) at the back of this guide will help you calculate the common ETP components of a cash payment.

If you have calculated the ETP components as outlined in 'Giving your employee a rollover payment choice' on page 8, you will need to re-calculate the components only when **part** of the ETP is rolled over and **part** of the ETP is paid in cash or the termination of employment date changes.

Calculate the components of the ETP cash payments and the 'assessable amount'.

THE ASSESSABLE AMOUNT

This is the amount of the ETP cash payment that an employee needs to include in their income tax return. You must calculate the assessable amount using the formula included in the worksheet (NAT 12567) and include it on an *ETP payment summary – payer to complete* (NAT 2605). This formula is only for the cash amount of the ETP. Do not include any amounts rolled over.

Pay your employee the net amount of the cash payment. This is the gross amount of the ETP cash payment less the amount withheld. Withholding rates are listed on page 11.

If you are paying an ETP because an employee has died, different rules apply. For more information refer to *Eligible termination payments – a guide for employers on the death of an employee* (NAT 2704).

WITHHOLDING THE CORRECT AMOUNT

The only component you need to withhold amounts from is the post-June 1983 – untaxed element, providing the employee has given you a tax file number (TFN) for taxation purposes. The correct rate is determined by the amount of the component, the person's age and whether the person gave you their TFN.

THE ETP PAYMENT SUMMARY IS AN APPROVED FORM

The information for ETP cash payments must be set out in the approved format. ETP payment summaries are available from the Tax Office. Employers who are approved by us can print ETP payment summaries. More information is available in your PAYG annual reporting.

When making a cash payment to an employee you need to:

- give an ETP payment summary to the employee within 14 days of making the payment
- send a copy of the ETP payment summary to the Tax Office, and
- send the amount withheld to us with your PAYG payments.

You do not have to issue an ETP payment summary if the payment is a death benefit paid to a dependant of a deceased employee.

WITHHOLDING RATES FOR ELIGIBLE TERMINATION PAYMENTS

Withholding rates included below are correct as 1 July 2006 (you will also need to add the Medicare levy). Special withholding rates for death benefit ETPs are in *Eligible termination payments – a guide for employers on the death of an employee* (NAT 2704).

Components	Age of the person	TFN provided	TFN NOT provided
Pre-July 1983 component	Any age	Nil	45%
Post-June 1983 – untaxed element component			
Amount up to the low rate threshold	55 or older	15%	45%
Amount over the low rate threshold	55 or older	30%	45%
All amounts	Under 55	30%	45%
Post June invalidity component	Any age	Nil	Nil

THE LOW RATE THRESHOLD (55 YEARS OR OLDER)

The low rate threshold is the limit for lower taxation treatment of the post-June 1983 component of an ETP.

The low rate threshold only applies to the cash amount of the post-June 1983 component and only applies to people aged 55 years and over at the date of payment.

For the 2005–06 financial year, the threshold is $129,751. For the 2006-07 financial year, the threshold is $135,590. The limit changes each year on 1 July.

EXAMPLE 8: Preparing an *ETP payment summary* (NAT 2605)

Continuing with example 7: Trent's payment instructions included a cash payment. *Ace Textiles* must give an *ETP payment summary* to Trent within 14 days of the payment. *Ace Textiles* can use the worksheet to calculate the components of the cash payment. There is no need to calculate the eligible service period again, as this period has not changed since *Ace Textiles* filled in the *ETP pre-payment statement.*

ETP components

Step 4: Pre-July 1983 component
Only use this step if employment started before 1 July 1983.

$ETP amount × (Step 1 days / Step 3 days)

$ 10,000 × 1,211 ÷ 8,928

Amount of the pre-July 1983 component $ 1,356.41

Step 5: Post-June 1983 – untaxed element
$ETP amount less pre-July 1983 (Step 4)

$ 10,000 less $ 1,356.41 = 8,643.59

Step 6: Assessable amount for cash payments only
(Step 4 × 5%) + Step 5 = assessable amount

($ 1,356.41 × 5%) + $ 8,643.59

Assessable amount $ 8,711.41

ETP components

Pre-July 1983 component	$ 1,356.00
Post-June 1983 – **untaxed** element	$ 8,644.00
Post-June 1994 – invalidity component (if paid see instructions)	$ .00
Gross amount of this cash payment	$ 10,000.00
Tax withheld	$ 2,723.00
Assessable amount (5% of the pre-July 1983 amount and all the post-June 1983 untaxed amount)	$ 8,712.00

Note: Only whole dollars are shown on the *ETP payment summary*.

REPORTING PAYMENTS TO THE TAX OFFICE

You must report ETP cash payments to us. You can report cash payments electronically.

When reporting an ETP cash payment, do not send us:
- any ETP pre-payment statements
- your employee's payment instructions, or
- any ETP rollover statements.

To meet your reporting obligations, you need to:
- report the ETP payment summary information to us with your PAYG annual reporting (follow the guidelines in your PAYG annual reporting), and
- report cash payments of more than $5,000 gross to us for reasonable benefit limits purposes. You can complete an *Employers: Reasonable benefits limits (RBL) reporting form* (NAT 14346) and the accompanying instructions, *How to complete the Reasonable benefit limits (RBL) reporting form* (NAT 14348). You can also lodge this data electronically using our electronic commerce interface (ECI) facility. This information must be sent to us by the **14th day** of the month after the month in which the payment was made. For example, an ETP paid on 14 March must be reported by 14 April. Only cash payments are reported (not rollover payments). You need to give your employee a copy of the information you reported to us.

HOW ELIGIBLE TERMINATION PAYMENTS RELATE TO REASONABLE BENEFIT LIMITS

ETPs and other retirement payments are taxed at reduced tax rates up to a certain limit called the reasonable benefit limit (RBL). The RBL is the maximum amount of retirement and termination of employment benefits a person can receive during their lifetime at reduced tax rates. Amounts over this limit are taxed at higher rates when a person lodges their tax return.

Employers (and other payers) are required to report certain payments (for example, ETPs) to the Tax Office so that we can determine whether the payment is within the RBL of the person to whom the payment was made. When a determination has been made, we let people know if any ETP or other retirement payments they receive has put them over their RBL.

More information is available in our fact sheet, *Reasonable benefit limits* (NAT 5256) or at **www.ato.gov.au/super**

KEEPING RECORDS

You need to keep records about ETPs for **five years**. Your records can be kept in electronic formats.

RECORDS TO BE KEPT

- A copy of an employee's payment instructions. Keep this for five years after the instructions were made.
- A copy of the ETP rollover statement sent to a fund. Keep this for five years after the date of the rollover.
- A copy of the ETP payment summary. Keep this for five years after the date the payment was made.
- A record of people authorised to sign an ETP pre-payment statement, an ETP rollover statement or an ETP payment summary. Keep these details for five years after the authorisation has ended. Records must specify when the authorisation started.
- A copy of the reasonable benefit limit information that has been reported. Keep this for five years after reporting the payment to the Tax Office.

A penalty may be imposed if you don't keep adequate records.

SIGNATURE AUTHORISATIONS

If a statement or form includes the name of the authorised person, it is taken to be signed by the employer, unless it is proved it was issued without the employer's authorisation. The signature of an authorised person can be a written, printed or stamped name, or a facsimile of the signature. Information transferred electronically which includes the name of an authorised person will generally satisfy the signature requirements.

MEETING YOUR OBLIGATIONS AVOIDS A PENALTY

ETPs are retirement benefits that receive special tax treatment for retirement savings. Meeting your obligations is important to ensure ETPs are taxed correctly.

Meeting your obligations will mean you can avoid penalties under the income tax laws. Penalties of $110 or more apply for contraventions of the income tax laws for ETPs. Using this guide will help you meet your obligations and avoid penalties.

Remember, you have other things that you need to do and report if you make cash payments. These include withholding amounts from the cash payments, sending withheld amounts to the Tax Office, record keeping and reporting payment summary information. Your PAYG annual reporting will help you meet these obligations. The penalty is dependent on the circumstances of each offence.

If you are not sure of your obligations we can help you. Contact us using one of the methods in the 'More information' section at the front of this guide.

YOUR ELIGIBLE TERMINATION PAYMENT PROCEDURES

Step 1: Decide if any part of the lump sum payment is an ETP (For some payments, you may need one of the special guides referred to in this guide).

Step 2: The payment is an ETP
- Calculate the eligible service period.
- Calculate the ETP components.

Step 3:

A **The ETP is $5,000 or less**
- Give your employee an opportunity to roll over the ETP.
- Make the payment following step 4 and/or step 5.

B **The ETP is more than $5,000**
- Prepare an ETP pre-payment statement, unless your employee has already given you their payment instructions.
- Give your employee the ETP pre-payment statement.
- Allow your employee **30** days (or less if reasonable) to give you their payment instructions.
- Pay the ETP as instructed by your employee, following step 4 and/or step 5.

Step 4: Making a payment to a superannuation fund
- Calculate the components of the roll-over.
- Prepare an ETP rollover statement.
- Make the rollover into the fund your employee listed in their payment instructions.
- Give the ETP rollover statement to the fund within **seven** days of payment.
- Give a copy of the information to your employee within **30** days of payment.

Step 5: Making a cash payment
- Calculate the components of the cash payment.
- Withhold the correct amount of tax from the payment.
- Prepare an ETP payment summary (available from us) and give it to your employee within **14** days of making the payment.
- Send any amounts withheld to us with your PAYG payments on your usual payment date.

Step 6: Reporting cash payments to the Tax Office
- Report ETP payment summary information to the Tax Office with your end of year PAYG annual reporting.
- Report cash payments of more than $5,000 to us for reasonable benefit limit purposes, by the 14th day of the month after the eligible termination payment cash payment.

Step 7: Keeping records for five years
- Keep a copy of the employee's payment instructions.
- Keep a copy of the ETP rollover statement.
- Keep a copy of the ETP payment summary.
- Keep records of people authorised to sign ETP statements or forms.
- Keep a copy of your RBL reporting information.

EMPLOYERS' FREQUENTLY ASKED QUESTIONS

Q Where can I get the forms and statements?

A You can access the forms and statements by visiting our website **www.ato.gov.au/super** and printing them. Search for the publications by typing in the title of the publication or their NAT number. Or you can contact us for printed copies by using one of the methods in the 'More information' section at the front of this guide.

Q I am terminating my employee's service and paying my employee an ETP of $6,000. Do I have to give my employee ETP pre-payment information and wait 30 days?

A Unless your employee has already instructed you on how to pay the ETP, you must give the employee an *ETP pre-payment statement – employers payment statement to an employee* (NAT 2668). You can ask your employee to reply in less than 30 days if it is reasonable to do so (for example, in the interest of the employee or under the terms of employment conditions).

Q I am terminating my employee's service and paying my employee an ETP of $4,000. Do I have to give my employee an opportunity to roll over the payment?

A You can do this but it is not compulsory. Because the payment is $5,000 or less, you can pay the ETP in cash if the employee has not already instructed you to roll over the payment.

Q My employee wants to defer payment to three months after the termination of employment date. Can I allow my employee to do this? Will I have to prepare another ETP pre-payment statement?

A Yes, under tax laws you can defer payment (you may have to check any relevant employment conditions or contractual arrangements).

You don't have to issue another ETP pre-payment statement as long as you have sufficient instructions about making the deferred payment. This is because your employee's termination of employment date has not changed.

Q My employee's termination of employment date has changed since I prepared the ETP pre-payment statement. Do I have to prepare another statement?

A No. If the instructions in the original statement are still sufficient then you can make the payments. A difference in a few days in the termination of employment date may change the components slightly, but it would not normally be necessary for you to re-issue an ETP pre-payment statement. If there has been a long delay in the termination date and the eligible termination payment has changed significantly, then you will need to get new instructions. You will also need to re-calculate the ETP components.

Q Why do I need to spilt the eligible termination payment into a pre-July 1983 component and a post-June 1983 – untaxed element component?

A Before 1 July 1983, only 5% of the whole payment was taxed as ordinary income. On 1 July 1983, there was a change in tax rates and a pre-July 1983 component was introduced to make sure employees were not disadvantaged.

Q Why do I need to re-calculate the components of the ETP when my employee asks for some of the payment to be rolled over and some of the payment to be paid in cash?

A The cash and rollover payment are separate payments for tax purposes. The components of each payment must be worked out using the formulae given in this guide. The fund needs to know the components of the rollover payment so that when money is withdrawn from the fund, it is taxed correctly.

For cash payments, you need to work out the components so you can withhold the correct amount of tax. This is so the employee is taxed correctly when they lodge their tax return.

Q My employee has asked for a rollover payment to be sent to a retirement savings account. Is this a fund?

A Yes, funds include superannuation funds, deferred annuity funds, approved deposit funds, life insurance companies and retirement savings account providers.

EMPLOYEES' FREQUENTLY ASKED QUESTIONS

Q My employer has given me an ETP pre-payment statement, what do I do with it?

A You use the information in the statement to decide how you want your ETP to be paid. You then tell your employer how you want your ETP paid, and keep a copy of these instructions for five years.

Q How do I give my employer instructions about how I want my ETP paid?

A Your employer's ETP pre-payment statement may have a section for you to return your payment instructions. You can give payment instructions to your employer in a letter or any other format. Your instructions just need to provide your employer with enough information to correctly pay or rollover the ETP.

Q How much of my ETP can be paid to me in cash and how much can I roll over to a fund?

A Any amount of an ETP can be taken in cash or rolled over to a fund (except a death benefit ETP which must be paid in cash only). The fund pays tax at special low rates when you roll over a payment. This reduces the tax you pay when you withdraw the money later.

Q My employer has paid me an ETP and the payment summary states the post-June 1983 element of my ETP is untaxed however my employer has withheld tax from this element. Why has tax been withheld when this element is untaxed?

A This component of your ETP is referred to as untaxed because no tax was paid on it before it was paid to you in cash or before it was rolled over as part of your ETP. As this element was previously untaxed, your employer must withhold the tax from it before making the payment to you.

If you roll the payment over to a superannuation fund then the fund pays contribution tax of 15% on the amount. This reduces the amount of income tax you pay later when you withdraw this money from your fund.

If you take this part of the ETP in cash then your age and the size of the payment will determine how much income tax you have to pay. The maximum amount of tax you would have to pay is 30%.

Q Do I have to include the ETP pre-payment statement, the ETP rollover statement or my payment instructions in my tax return?

A No. However, if you take a cash payment, you need to include a copy of the payee's tax return copy of your ETP payment summary if you lodge a paper tax return.

Q I am receiving an ETP and I am not sure what to do with it. Where can I get financial advice?

A The Tax Office can give you information about the way your payment will be taxed, but cannot give you financial advice about your ETP.

Centrelink may offer you a financial advice service. The Yellow Pages has a list of financial advisers, accountants and tax agents and professional associations to help you.

Q My employer gave me an ETP payment summary, what do I need to do with it?

A Follow the instructions in *TaxPack* or *e-tax* to fill in your tax return. If you are lodging a paper return, attach the payee's tax return copy to your tax return. Keep a copy for your records for **five years**.

Q When will I receive a reasonable benefit limits determination notice?

A We will send you a determination notice if any of the following situations apply to you:

- you have exceeded your limit
- you have not provided your tax file number to your payer (employer), or
- you have previously received an excessive determination and your circumstances have changed resulting in an amendment to the original determination.

If you receive a determination, you need to include the information on the determination notice in your tax return for the year in which the ETP was paid.

Q I've received an ETP of less than $5,000 and taken it in cash. Does this amount need to be included in my tax return?

A When your cash ETP is less than $5,000 you should still receive an ETP payment summary. The information from this summary must be included in your income tax return for that year.

Q Why don't you call it a redundancy payment, rather than an ETP?

A We call it an ETP because this term covers more situations than just redundancy. An ETP covers many reasons for ending employment. Redundancy is just one reason why a job may end.

Australian Government
Australian Taxation Office

Employer ETP worksheet

NOT for ETPs with an invalidity component

For calculating an ETP before payment, or calculating an ETP roll-over payment, or calculating an ETP cash payment.

Employee's name: ______ **No.** ______

Date employment commenced: / / **Amount of the ETP** $ ______

Eligible service period

Step 1 Number of days before 1 July 1983

Only use this step if employment started before 1 July 1983.

First determine the number of whole years from date employment started to 30 June 1983 (include 30 June).

______ years @ 365 days = ______ days

Add one day for each whole year which includes 29 February ______ days

Add days in the part year period ______ days

Total number of days before 1 July 1983 ______ days

Step 2 Number of days after 30 June 1983

/ /

Complete this step for each payment.
First determine the number of whole years starting from 1 July 1983, (or the date employment commenced if this is after 1 July 1983), to date of termination of employment (include the termination date).

______ years @ 365 days = ______ days

Add one day for each whole year which includes 29 February ______ days

Add days in the part year period ______ days

Total number of days after 30 June 1983 ______ days

Step 3 Total days in the eligible service period

Step 1 days (if any) + Step 2 days = ______ days

ETP components

Step 4 Pre-July 1983 component

Only use this step if employment started before 1 July 1983

$ ETP amount x (Step 1 days/Step 3 days)

$ ______ x (______ ÷ ______) =

Amount of the pre-July 1983 component $ ______

Step 5 Post-June 1983 – untaxed element

$ ETP amount less
$ Pre-July 1983 component (Step 4)

$ ______ less $ ______ = $ ______

Step 6 Assessable amount for cash payments only

(Step 4 x 5%) + Step 5 = assessable amount

($ ______ x 5%) + $ ______ =

Assessable amount $ ______

Calendar

Months	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Days	31	28	31	30	31	30	31	31	30	31	30	31
Leap years	1940	1944	1948	1952	1956	1960	1964	1968	1972	1976	1980	1984
	1988	1992	1996	2000	2004	2008	2012	2016	2020	2024	2030	2034

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