

Employment termination payments

Explains how the tax treatment of payments from the termination of employment (currently called eligible termination payments) will change from 1 July 2007.

Under the changes to super, an employment termination payment, as it will be called from 1 July 2007, is a lump sum payment made in consequence of the termination of employment. It can include:

- amounts for unused rostered days off
- amounts in lieu of notice
- a gratuity or 'golden handshake'
- an employee's invalidity payment (for permanent disability, other than compensation for personal injury), and
- certain payments after the death of an employee.

Employment termination payments do not include:

- a payment for unused annual leave or unused long service leave, or
- the tax-free part of a genuine redundancy payment or an early retirement scheme payment.

ⓘ There are no changes to the tax treatment of unused leave, redundancy and early retirement payments.

ARE THERE ANY TRANSITIONAL ARRANGEMENTS?

Transitional arrangements apply if you were entitled, as at 9 May 2006, to a payment made on the termination of employment under:

- a written contract
- an Australian or foreign law (or an instrument under such a law), or
- a workplace agreement under the *Workplace Relations Act 1996*.

➔ For more information, refer to *Employment termination payments – transitional arrangements* (NAT 70644).

WHAT ARE THE CHANGES FROM 1 JULY 2007?

The changes that will apply from 1 July 2007 are as follows:

- Reasonable benefit limits (RBLs) will be abolished.
- A payment will generally need to be received within 12 months of the termination to qualify as an employment termination payment.
- Employment termination payments will not be able to be rolled over into super.
- Life benefit employment termination payments will
 - not be subject to tax on any tax-free component (invalidity or pre-July 1983 amounts), or
 - be concessionaly taxed up to a cap of \$140,000 for 2007–08 (to be indexed).
- The tax treatment of death benefit employment termination payments will depend on whether they are made to a dependant or non-dependant and how much is paid.

RBLs ABOLISHED

RBLs will be abolished from 1 July 2007. RBLs restrict the amount of concessionaly taxed termination and super benefits an individual can receive over their lifetime.

Eligible termination payments which exceeded the reasonable benefit limits for income years before 2007–08 must be correctly declared in income tax returns for those years.

12 MONTH RULE

From 1 July 2007, a payment must be received within 12 months of your termination to qualify as an employment termination payment. However, we may allow a payment received after this period to be considered as an employment termination payment for tax purposes.

Payments received outside 12 months will be taxed as ordinary income at marginal tax rates.



EMPLOYMENT TERMINATION PAYMENTS CAN'T BE ROLLED OVER INTO SUPER

Employment termination payments made after 1 July 2007, (other than those made under the transitional arrangements) won't be able to be contributed or rolled over into super.

➤ For more information about transitional arrangements, refer to *Employment termination payments – transitional arrangements* (NAT 70644).

LIFE BENEFIT EMPLOYMENT TERMINATION PAYMENTS

From 1 July 2007, any invalidity or pre-July 1983 amounts in a life benefit employment termination payment will be tax-free.

The tax on any remaining, taxable component will depend on your age, as shown in the following table.

Your age	Tax on taxable component from 1 July 2007
Under preservation age* on the last day of the income year in which the payment is made.	<ul style="list-style-type: none"> ■ Up to \$140,000 – taxed at a maximum rate of 30% plus Medicare levy. ■ Amount over \$140,000 – taxed at top marginal tax rate plus Medicare levy.
Preservation age* or over on the last day of the income year in which the payment is made.	<ul style="list-style-type: none"> ■ Up to \$140,000 – taxed at a maximum rate of 15% plus Medicare levy. ■ Amount over \$140,000 – taxed at top marginal tax rate plus Medicare levy.

* Preservation age is the age at which retirees can access their super benefits generally on retirement.

If you were born:

- before 1 July 1960, you can access your super when you are 55.
- after 30 June 1960, your preservation age will be between 55 and 60. This is because the preservation age will gradually increase from 55 to 60 between 2015 and 2025.

Concessional cap on life benefit employment termination payments

The cap on concessional tax employment termination payments is \$140,000 for the 2007–08 income year and will be indexed.

The taxable components of all life benefit employment termination payments received in an income year are counted towards this cap.

As shown in the above table, the taxable components of any payments in excess of the cap are taxed at the top marginal rate plus the Medicare levy.

❗ Any tax-free amounts are not counted towards the cap.

Also counted towards the cap are the taxable components of any life benefit employment termination payments you have received in an earlier income year for the same employment termination.

DEATH BENEFIT EMPLOYMENT TERMINATION PAYMENTS

The treatment of the taxable component of death benefit employment termination payments, depends on whether the payment is made to a dependant or non-dependant and how much is paid.

Payment to a dependant

From 1 July 2007, the taxable component of a death benefit employment termination payment, paid to a dependant that is within the recipient's cap on concessional tax employment termination payments is tax-free. The remainder of the taxable component (if any), will be taxed at the top marginal tax rate plus Medicare levy.

Payment to a non-dependant

From 1 July 2007, the taxable component of a death benefit employment termination payment, paid to a non-dependant that is within the recipient's cap on concessional tax employment termination payments will be taxed at a maximum rate of 30% plus Medicare levy. The remainder of the taxable component (if any), will be taxed at the top marginal tax rate plus Medicare levy.

The table below sets out the tax treatment for death benefit employment termination payments.

Recipient	Tax on taxable component from 1 July 2007
Dependant	<ul style="list-style-type: none"> ■ Amount within the recipient's employment termination payment cap is tax-free. ■ Amount over the recipient's employment termination payment cap – taxed at recipient's top marginal tax rate plus Medicare levy.
Non-dependant	<ul style="list-style-type: none"> ■ Amount within the recipient's employment termination payment cap – taxed at a maximum rate of 30% plus Medicare levy. ■ Amount over the recipient's employment termination payment cap – taxed at recipient's top marginal tax rate plus Medicare levy.

Cap on death benefit employment termination payments

The cap on death benefit employment termination payments is \$140,000 for the 2007–08 income year and will be indexed.

The cap limits the amount of death benefit employment termination payments payable for the same employment termination that are concessional tax.

The death benefit employment termination payments cap operates independently of the life benefit employment termination payments cap. That is, any death benefit employment termination payments you receive do not count towards the life benefit employment termination payments cap. Similarly, any life benefit employment termination payments you receive do not count towards the death benefit employment termination payments cap.

For example, your neighbour's spouse dies and your neighbour receives a death benefit employment termination payment from their spouse's employer. Your neighbour resigns from their job and receives a life benefit employment termination payment. The \$140,000 cap applies separately to each payment.

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The information in this publication is current at July 2007.

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