



How is tax withheld under FEG?

The Department of Jobs and Small Business (the department) is required to withhold Pay as you go (PAYG) tax from payments for assistance under the Fair Entitlements Guarantee (FEG). This fact sheet provides information about how tax is calculated.

Payment of FEG assistance

If you are eligible for FEG assistance, the department pays you directly.

Notice of variation

Under the *Taxation Administration Act 1953* (the TAA), where the department pays FEG assistance directly, it is required to withhold PAYG tax. The department must withhold tax in accordance with the Notice of Variation under section 15-15 of Schedule 1 to the TAA issued by the Commissioner of Taxation (the variation).

Providing a tax file number (TFN)

The department is authorised to collect your TFN under the TAA. The variation specifies the tax arrangements that apply where a person provides the department with their TFN on a TFN declaration form*. **It does not apply where a person fails to provide one.**

***You are not required to provide your TFN. However, if you do not provide your TFN or claim a relevant exemption on your TFN declaration, the department is required to withhold tax from your FEG payment at the top marginal rate (currently 47 per cent).**

PAYG withholding under FEG – TFN provided

Unpaid wages, annual leave and long service leave

Under the variation, from 1 July 2016, tax is withheld from FEG payments for unpaid wages, annual leave and long service leave at the rate of 34.5 per cent.

Example 1: Jan is a part-time employee who lost her job when her employer entered into liquidation on 30 November 2018.

Jan lodges a claim for FEG assistance and provides the department with her TFN. The department determines that Jan is eligible for FEG assistance of \$800 for unpaid wages and \$400 for unused annual leave (total \$1,200).

The department withholds \$276 from Jan’s FEG payment for unpaid wages (34.5 per cent of \$800) and \$138 from her FEG payment for annual leave (34.5 per cent of \$400). Following these tax amounts being withheld from her gross FEG entitlement of \$1,200, the net payment paid to Jan is \$786.

Payment in lieu of notice (PILN) and Redundancy Pay

Under 65 years of age

For tax purposes, FEG payments for PILN and redundancy pay for a person who was under the age of 65 at the time their employment ended are treated as genuine redundancy payments.

Genuine redundancy payments are tax-free up to a limit calculated as follows:

| Income year | Base limit | For each completed years of service |
|-------------|------------|-------------------------------------|
| 2018-19 | \$10,399 | \$5,200 |
| 2017-18 | \$10,155 | \$5,078 |
| 2016-17 | \$9,936 | \$4,969 |

Example 2: Roger is a full-time employee who lost his job when his employer entered into liquidation on 21 July 2018. Roger is 48 years of age and had worked for his employer for just over 10 years.

Roger lodges a claim for FEG assistance and provides the department with his TFN. The department determines that Roger is eligible for FEG assistance for PILN (5 weeks) and redundancy pay (12 weeks). Roger's weekly wage for the purposes of calculating PILN and redundancy pay is \$1,000, which means that he is entitled to a total FEG payment of \$17,000 for PILN and redundancy pay.

The department does not withhold any tax from Roger's FEG payment for PILN and redundancy pay because the payment does not exceed the tax-free component of \$62,399 [\$10,399 + (\$5,200 x 10 years)]. The full (untaxed) amount of \$17,000 is paid to Roger by the department.

If FEG assistance for PILN and redundancy pay exceeds the tax-free component, but is less than the Employment Termination Payment cap (ETP cap), the department must withhold tax at the rate of 34.5 per cent. The ETP cap is as follows:

| Income year | ETP cap |
|-------------|-----------|
| 2018-19 | \$205,000 |
| 2017-18 | \$200,000 |
| 2016-17 | \$195,000 |

Example 3: Jill is a full-time employee who lost her job when her employer entered into liquidation on 4 December 2018. Jill is 50 years of age and had worked for her employer for just over 8 years.

Jill lodges a claim for FEG assistance and provides the department with her TFN. The department determines that Jill is eligible for FEG assistance for PILN (5 weeks) and redundancy pay (18 weeks). Jill's weekly wage for the purposes of calculating PILN and redundancy pay is \$2,300, which means that she is entitled to a total FEG payment of \$52,900 for PILN and redundancy pay.

The tax-free component of Jill's FEG payment for PILN and redundancy pay is \$51,999 [\$10,399 + (\$5,200 x 8 years)]. The department does not withhold any tax from the tax-free component (\$51,999), but withholds \$310.00 (34.5 per cent of (\$52,900 - \$51,999) from the remainder of Jill's FEG payment for PILN and redundancy pay because it exceeds the tax-free component. The net amount of \$52,590 is paid to Jill by the department.

If a FEG payment for PILN and redundancy pay exceeds the ETP cap, the department must withhold tax at the rate of 47 per cent from the amount that exceeds the ETP cap.

65 years of age or over

Under the TAA, payments for PILN and redundancy pay to a person who was 65 years of age or older at the time their employment ended are not genuine redundancy payments. Under the variation, the department must withhold tax from these payments as follows:

- 34.5 per cent from the portion of the payment below the ETP cap, and
- 47 per cent from the portion of the payment that exceeds the ETP cap.

Example 4: Phil is a full-time employee who lost his job when his employer entered into liquidation on 1 March 2019. Phil is 67 years of age and had worked for his employer for just over 23 years.

Phil lodges a claim for FEG assistance and provides the department with his TFN. The department determines that Phil is eligible for FEG assistance for PILN (5 weeks) and redundancy pay (46 weeks). Phil's weekly wage for the purposes of calculating PILN and redundancy pay is \$1,200, which means that he is entitled to a total FEG payment of \$61,200 for PILN and redundancy pay.

As Phil was 65 years of age or over at the time his employment ended, no tax-free component applies to the PILN and redundancy payments.

As the total amount does not exceed the ETP cap, the department must withhold \$21,114 (34.5 per cent of \$61,200) from Phil's FEG payment for PILN and redundancy pay. The net amount of \$40,086 is paid to Phil by the department.

Want more information?

You can contact the FEG Hotline if you would like more information about how tax is withheld under FEG. To contact the FEG Hotline:

- phone 1300 135 040
Mon - Fri, 9 am - 5 pm (AEST/ADST)
- email FEG@jobs.gov.au

If you speak a language other than English, please call the Translating and Interpreting Service (TIS) on 13 14 50 for assistance.

If you speak an indigenous language, please call the Kimberley Interpreting Service on (08) 9192 3981 or the Aboriginal Interpreter Service on 1800 334 944 for assistance.

Further information about FEG is also available on the FEG website (www.jobs.gov.au/FEG).

Table 1: PAYG withholding and reporting for payments made under the Fair Entitlements Guarantee

| Item | Type of payment | Relevant provision - PAYG withholding | Applicable tax table or withholding rate | Relevant payment summary |
|------|---|---|--|---|
| 1 | Back payment of wages, including unpaid amounts of leave already taken Payments for rostered days off | Payment to employee Section 12-35 of schedule 1 to the TAA | Withhold at 34.5% ¹ | <i>PAYG payment summary - individual non-business (NAT 0046)</i> ³ |
| 2 | Unused annual leave | Payment for unused leave Section 12-90 of schedule 1 to the TAA | Withhold at 34.5% ¹ | <i>PAYG payment summary - individual non-business (NAT 0046)</i> |
| 3 | Unused long service leave | Payment for unused leave Section 12-90 of schedule 1 to the TAA | Withhold at 34.5% ¹ | <i>PAYG payment summary - individual non-business (NAT 0046)</i> |
| 4 | Redundancy pay and payment in lieu of notice when paid to a worker who is under the age of 65 at the time of termination which falls within the tax-free limit | Employment termination payment (ETP) ² Section 12-85 in schedule 1 of the TAA | No withholding ¹ | <i>PAYG payment summary - employment termination payment (NAT 70868)</i> |
| 5 | Redundancy pay and payment in lieu of notice when paid to a worker who is under the age of 65 at the time of termination that exceeds the tax-free limit, but is less than the ETP cap | Employment termination payment (ETP) ² Section 12-85 in schedule 1 of the TAA | Withhold at 34.5% ¹ | <i>PAYG payment summary - employment termination payment (NAT 70868)</i> |
| 6 | Redundancy pay and payment in lieu of notice when paid to a worker who is 65 years of age or older at the time of termination to the extent that the payment does not exceed than the ETP cap | Employment termination payment (ETP) ³ Section 12-85 in schedule 1 of the TAA | Withhold at 34.5% | |
| 7 | Redundancy pay and payment in lieu of notice when paid to any worker regardless of age at the time of termination to the extent that they exceed the higher of the tax-free limit or ETP cap | Employment termination payment (ETP) ⁴ Section 12-85 in schedule 1 of the TAA | Withhold at 47.0% | <i>PAYG payment summary - individual non-business (NAT 0046)</i> |

1. The tax-free amount of a genuine redundancy includes only those amounts which exceed the amount which the individual would have been paid upon a normal termination. This includes amounts for payment in lieu of notice if applicable. Unused leave cannot be tax-free. For the tax-free threshold for the year in which the payment is made, refer to the *Tax table for employment termination payments (ETP)*.
2. An ETP includes the part of a genuine redundancy payment or early retirement scheme payment for a worker who is under 65 years of age at the time of termination that exceeds the tax-free.
3. Redundancy pay and payment in lieu of notice paid to a worker who is 65 years of age or older at the time of termination are not classed as genuine redundancy payments and no tax-free component applies.
4. All payments for redundancy pay and payment in lieu of notice, regardless of a worker's age at the time of termination that exceed the ETP cap will have tax withheld at the top marginal rate.