

LEAVE AND TERMINATION PAYMENTS

Employee termination payments may become payable as a result of ceasing employment for any reason with any employer. These payments can be classified into two categories:

1. Ordinary Termination Payments
2. Employment Termination Payments (ETPs).

ORDINARY TERMINATION PAYMENTS

Ordinary Termination Payments include the following:

- Leave payments, including long service leave, annual leave and associated leave loading.
- The tax-free portion of a genuine redundancy or approved early retirement scheme. For the 2021/22 financial year, this is \$11,341 plus \$5,672 for each completed year of service.
- A lump sum payment for personal injury.
- A payment from a non-complying superannuation or rollover fund which has always been a non-complying fund (non-complying funds do not benefit from any tax concessions).

Taxation on these payments cannot be altered or reduced in any way. However, the after-tax value of these payments can generally be contributed to a superannuation fund as a personal contribution or spouse contribution. Please note that there are thresholds on how much you can contribute.

The most common form of Ordinary Termination Payments are for accrued annual leave and long service leave. A lump sum payment in lieu of unused annual or long service leave following a termination of employment may, in certain circumstances, be subject to concessional tax treatment. This may limit the maximum rate of tax payable on all or certain parts of the payment.

The following table sets out the applicable tax rates for the 2021/22 financial year.

ANNUAL LEAVE

Reason for employment termination		Tax treatment
For general retirement or termination	Leave accrued to 17 August 1993	100% included in assessable income and taxed at a maximum rate of 30% ¹¹
	Leave accrued from 18 August 1993	100% included in assessable income and taxed at a person's marginal tax rate ¹
Genuine redundancy, approved early retirement or invalidity		100% of taxable component included in assessable income and taxed at a maximum rate of 30% ¹

LONG SERVICE LEAVE

Reason for employment termination		Tax treatment
For general retirement or other termination (such as resignation)	Leave accrued to 15 August 1978	5% included in assessable income and taxed at a person's marginal tax rate ¹
	Leave accrued 16 August 1978 to 17 August 1993	100% included in assessable income and taxed at a maximum rate of 30% ¹
Genuine redundancy, approved early retirement or invalidity		100% included in assessable income and taxed at a person's marginal tax rate ¹

EMPLOYMENT TERMINATION PAYMENTS (ETPs)

Examples of ETPs include:

- payments for unused sick leave
- golden handshakes or ex-gratia payments

¹ Plus Medicare levy

- payments in lieu of notice
- payments for unused rostered days off
- the part of a genuine redundancy or approved early retirement scheme in excess of the tax-free component
- the whole of a genuine redundancy payment to a person who is 65 years or older.

ETPs made after 1 July 2012 must be taken as cash payments and cannot be rolled over into super.

Taxation of ETPs

ETPs comprise two taxation components:

1. **Tax-free component:** If applicable, this component comprises a pre-July 1983 segment and an invalidity segment (previously known as the post-June 1994 invalidity component). The tax-free portion is always tax-free and is considered to be non-assessable and non-exempt income.
2. **Taxable component:** The taxable component is the total payment less the tax-free component.

AGE	TAX TREATMENT OF TAXABLE PORTION 2021/22	
Under preservation age (PA) ² on the last day of the income year in which the payment is made	First \$225,000 ³	30% ⁴
	Excess over \$225,000 ²	45% ³
Over PA on the last day of the income year in which the payment is made	First \$225,000 ²	15% ³
	Excess over \$225,000 ²	45% ³

WHOLE-OF-INCOME CAP

A whole-of-income cap for ETPs was introduced in 2012.

From 1 July 2012, the concessional tax rates above on ETPs only apply to that part of the ETP which takes an individual's taxable income (including the taxable portion of

² Preservation age is 55 for persons born before 1 July 1960, 56 for persons born before 1 July 1961 and increases in yearly steps to 60 for those born after 30 June 1964.

³ ETP cap for the 2021/22 financial year and applies to the sum of all ETPs received during the financial year. This is a yearly limit and is indexed (in \$5,000 increments) in line with AWOTE on 1 July each year. Amounts received under this cap are not counted towards the low rate cap on superannuation benefits.

⁴ Plus Medicare levy

the ETP) to the cap limit, which as at 1 July 2021 was \$180,000. Amounts above the cap are taxed at the highest marginal tax rate (i.e. 47% including the Medicare levy).

The ETP cap (\$225,000 for 2021/22) works in conjunction with the whole-of-income cap. This ensures that ETPs only attract concessional tax rates up to the ETP cap amount.

The whole-of-income cap does not apply to ETPs relating to a genuine redundancy, invalidity, compensation due to an employment related dispute or death. If an ETP has been received as a result of voluntarily terminating employment, then it is subject to the whole-of-income cap.

Need further information?

If you would like further information, please visit activesuper.com.au or contact Member Services on 1300 547 873 between 8.30am and 5.00pm Monday to Friday.

This has been issued by LGSS Pty Limited (ABN 68 078 003 497) (AFSL 383558), as Trustee for Local Government Super (ABN 28 901 371 321) (Active Super). The information in this document is general advice only and does not take into account your personal objectives, situation or needs. You should consider obtaining professional financial taxation and or legal tailored to your personal circumstances and refer to the relevant Product Disclosure Statement available at activesuper.com.au before making a financial decision. Date issued: 1 July 2021.