



Legislative Instrument

Employment Termination Payments Redundancy Trusts (12 month rule) Determination 2009

I, Neil Olesen, Deputy Commissioner of Taxation, make this determination under subsection 82-130(7) of the *Income Tax Assessment Act 1997*.

Dated this 23rd day of February 2009.

Neil Olesen
Deputy Commissioner of Taxation

1. **Name of Determination**

This determination is the *Employment Termination Payments Redundancy Trusts (12 month rule) Determination 2009*.

2. **Commencement**

This determination commences on the day after it is registered.

3. **Application**

This determination applies to a payment received after 30 June 2007 by a person if the payment is received from a redundancy trust:

(a) either

- i) in consequence of the termination of that person's employment, or
- ii) after another person's death, in consequence of the termination of that other person's employment; and

(b) more than 12 months after that termination; and

(c) is not a payment under section 82-135 of the *Income Tax Assessment Act 1997*.

In this determination, such a payment is called a **late termination payment**.

4. **Determination**

Paragraph 82-130(1)(b) of the *Income Tax Assessment Act 1997* does not apply to a late termination payment if:

- (a) the person whose employment was terminated was a member of a redundancy trust and an application for the payment was lodged with the trustee of the redundancy trust within 12 months of the person becoming entitled to the payment under the terms of the trust deed of the redundancy trust; and
- (b) the payment was made by the trustee of the redundancy trust:
 - (i) as soon as practicable after receipt of the application for payment; or
 - (ii) no later than 2 years after the termination of the person's employment that led to the entitlement;whichever occurs earlier; or
- (c) immediately before 1 July 2007 the member of the redundancy trust had an existing entitlement to a payment from the redundancy trust as a consequence of a termination of employment of the person before 1 July 2007 and the payment of the benefit was made by the trustee of the redundancy trust prior to 1 July 2010.

5. Definitions

In this Determination:

'redundancy trust' means:

- (a) a workers entitlement fund that was established prior to 1 April 2003; or
- (b) is a prescribed workers entitlement fund listed in Schedule 3 to the Fringe Benefits Tax Regulations 1992.

'member of a redundancy trust' means a person who is entitled to a payment/s under the terms of the redundancy trust's deed due to termination of employment.