

LI 2024/D7 -



Taxation Administration (Withholding Variation for Certain Payments to US Resident Entertainers Including Athletes) Legislative Instrument 2024

I, Ben Kelly, Deputy Commissioner of Taxation, make the following legislative instrument.

Draft published 9 May 2024

Ben Kelly DRAFT ONLY—NOT FOR SIGNATURE
Deputy Commissioner of Taxation

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1 Name

This instrument is the *Taxation Administration (Withholding Variation for Certain Payments to US Resident Entertainers Including Athletes) Legislative Instrument 2024*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under sections 15-15 and 16-180 in Schedule 1 to the Act.

4 Definitions

Note: A number of expressions used in this instrument have the same meaning as in Schedule 1 to the Act. Expressions in Schedule 1 to the Act have the same meaning as in the *Income Tax Assessment Act 1997* (see section 3AA of the Act). The following expressions are relevantly defined in section 995-1 of the *Income Tax Assessment Act 1997*:

- (a) income year;
- (b) financial year;
- (c) payment summary;
- (d) withholding payment.

In this instrument:

Act means the *Taxation Administration Act 1953*.

Australia and US international tax agreement means the “United States convention”, as defined in section 3AAA of the *International Tax Agreements Act 1953*.

Note: The text of this agreement is set out in Australian Treaty Series 1983 No. 16 ([1983] ATS 16).

entertainer has the same meaning as in Article 17 of the Australia and US international tax agreement.

Note: Entertainer includes theatrical, motion picture, radio or television artistes, musicians and athletes.

US means the United States of America.

5 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

6 Withholding variation

The amount a payer must withhold from a withholding payment to a payee covered by paragraph (1) of Article 17 of the Australia and US international tax agreement is varied to nil, where:

- (a) the payee is an entertainer who is a resident of the US;
- (b) the payment is for activities the payee undertakes in Australia as an entertainer; and
- (c) the sum of all the payments described in paragraph 6(b) does not exceed 10,000 US dollars, or its equivalent in Australian dollars, for the income year concerned.

7 Payment summary exemption

A payer is not required to give a payment summary in respect of withholding payments to a payee in a financial year where they have not withheld any amount from those payments because of the operation of this instrument.

Schedule 1—Repeals

*Taxation Administration Act 1953 – Pay as you go withholding –
Variation to remove the requirement to withhold from
payments for certain US resident entertainers and sport
persons*

1 The whole of the instrument

Repeal the instrument

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