

Variation 51 -



Legislative Instrument

PAYG Withholding variation for foreign resident capital gains withholding payments – marriage or relationship breakdowns

I, Matthew Bambrick, Acting Deputy Commissioner of Taxation, make this variation under subsection 14-235(5) of Schedule 1 to the *Taxation Administration Act 1953*.

Acting Deputy Commissioner of Taxation
Dated: 5 October 2016

1. Name of instrument

This determination is the *PAYG Withholding variation for foreign resident capital gains withholding payments – marriage or relationship breakdowns*.

2. Commencement

This instrument commences on the day after its registration on the Federal Register of Legislative Instruments

3. Application

This instrument applies to payments covered by section 14-200 of Schedule 1 to the *Taxation Administration Act 1953*, where

- (i) under the *Family Law Act 1975* or under a State law, Territory law or foreign law relating to breakdowns of relationships between spouses, the transferee acquires ownership of an asset; and
- (ii) the transferee possesses a copy of the relevant documentation specified in subsection 126-5(1) of the ITAA 1997 by the time of the finalisation of the transfer, showing that the asset was acquired in accordance with subparagraph 3(i).

4. Determination

The amount to be paid to the Commissioner in relation to transactions covered by this instrument is varied to nil.

5. Definitions

- Spouse - as defined within subsection 995-1(1) of the Income Tax Assessment Act 1997
- Transferor – the person or entity named in the relevant documentation specified in subsection 126-5(1) of the ITAA 1997, under which the *Family Law Act 1975*, State law, Territory law or foreign law relating to breakdowns of relationships between spouses, is requiring them to transfer an asset to another individual (transferee).

- Transferee – the individual who is named in the relevant documentation specified in subsection 126-5(1) of the ITAA 1997 as being in receipt of the ownership of the asset transferred under the *Family Law Act 1975* or under a State law, Territory law or foreign law relating to breakdowns of relationships between spouses.

Other terms used in this legislative instrument have the same meaning as defined in the:

- *Income Tax Assessment Act 1997*, or
- *Taxation Administration Act 1953*