Redundancy

what you need to know

If you have been made redundant, it is important to understand the financial issues involved, your entitlements, and how to make the most of your redundancy payment with the help of your adviser.

Components of a redundancy payment

If you have been made redundant, you may be entitled to receive certain tax concessions that would not normally be available if you were leaving on other grounds.

Generally a termination payment is made up of several different components, with each component receiving its own tax treatment. The table below shows three common types of payments that generally make up a redundancy payout and the tax treatment of each.

Payment type	Tax treatment
Tax free 'genuine redundancy payment' up to a prescribed limit	Tax-free
Remaining 'genuine redundancy payment' above tax-free amount (an 'employment termination payment' (ETP) for tax purposes – see below)	Taxed as an ETP (see below)
Unused annual leave and unused long service leave	Taxed at special rates (see below)

Genuine redundancy payments

For a payment to be considered a genuine redundancy payment for tax purposes, it must meet the following criteria:

- you are dismissed before the day you turn 65[1]
- the duties performed are no longer required
- no arrangement for future employment between you and the employer, or between your employer and another person to employ you, can be made
- the amount paid must not exceed an amount for a dismissal that is reasonable on an arm's length basis[2] and
- the amount must exceed the amount that could reasonably be expected to be received upon voluntary termination.

A payment can only qualify as a genuine redundancy payment to the extent it exceeds the amount that would have been paid on voluntary termination. The part of any termination payment you receive that would also be paid on voluntary termination won't qualify as a genuine redundancy payment (although it may form part of your ETP).A genuine redundancy payment does not include any amount paid in relation to unused annual or long service leave entitlements. Please see more on leave payments below.

Depending on the amount of your genuine redundancy payment, it may be made up of either (or often both) a tax-free amount and a taxable amount.

Tax-free part of genuine redundancy payment

The tax free amount of a genuine redundancy payment for 2019-20 is:

$10,638 + ($5,320 x each complete year of service)

This tax-free amount is not assessable income and is not included as an 'employment termination payment' for tax purposes.[3]

Remaining genuine redundancy payment above tax-free threshold

The part of a genuine redundancy payment that exceeds the tax-free amount may be concessionally taxed as an 'employment termination payment' (ETP). See more on ETPs below.

Unused annual leave and unused long service leave payments

You may be entitled to unused annual and/or long service leave payments. These will be paid out as a lump sum when you leave your employer. These amounts are taxable as lump sum leave payments and do not qualify for treatment as a tax-free genuine redundancy payment nor as an employment termination payment (ETP).

If you have been made redundant, concessional rates of tax apply to unused annual leave and unused long service leave payments. Generally a portion of these payments are taxed at the lower of either 30% or your marginal tax rate plus Medicare levy where applicable, depending on when your leave accrued. Your employer should withhold tax when these amounts are paid to you.

Unused sick leave payments and unused rostered days off are treated as 'employment termination payments' for tax purposes.

Employment Termination Payments

A payment must meet the following conditions to be considered an ETP:

- it is received by you in consequence of the termination of your employment, no later than 12 months after that termination and
- it is not specifically excluded from being treated as an ETP by the ATO.

Strict conditions apply to what can and can't be considered an ETP. See table below for details.

Considered an ETP	Not an ETP
- Genuine redundancy payments in excess of the tax-free amount - Unused roster days off (RDOs) - Payments in lieu of notice - Unused sick leave - A gratuity or 'golden handshake' - Compensation for the loss of job or wrongful dismissal	- Genuine redundancy payments within the tax-free amount - Unused annual leave or leave loading - Unused long service leave - Salary, wages and allowances owing to the employee for work done or leave already taken - Compensation for personal injury - Payment for restraint of trade - An advance or loan - Deemed dividends - Super benefits

Taxation of ETPs

If you had an employment service period which commenced on or before 30 June 1983, then the fraction of your ETP related to that service period will be tax-free.

The residual amount of the ETP is the 'taxable component' which may be concessionally taxed, depending on your age, the type of payment and the remaining applicable cap. The concessional tax rate is 15% (plus Medicare) if you've reached your preservation age and 30% (plus Medicare) if you haven't, up to the relevant cap. Amounts above the caps are taxed at 45% (plus Medicare).[4]

Unpaid salary or wages

The portion of a termination payment that represents your normal salary or wages is taxable as ordinary income without any special treatment.

Social security

If you have been made redundant, you may wish to apply for a Centrelink benefit such as Newstart Allowance. In order to access social security benefits – first you will need to prove your eligibility through the income and assets tests. You may then be required to serve one or more waiting periods before receiving your first payment and an 'income maintenance period' may apply.

Your superannuation

When you leave your job you may satisfy a condition of release allowing access to some or all of your superannuation. Some common conditions of release include permanently retiring after preservation age (between 55 and 60 depending on your date of birth), or stopping work after age 60.

All withdrawals from super are tax-free once you reach 60 (this applies to taxed funds only), but some tax may apply if you withdraw your super while under age 60. If you are able to access your super, you should consider the various tax and social security implications before you decide whether or not to cash it out.

You may also wish to consider contributing some or all of your redundancy payment to super. Please note standard contributions caps apply.

When you are made redundant, you may also need to move your super out of the employer fund to a fund of your choice. If you are contributing some or all of your redundancy payment to super, you may wish to consolidate your redundancy payment with your existing super benefit and move them to a new fund. If you have insurance with your existing super fund, it's important to check you can receive equal cover from your new fund.

Getting help from your adviser

This time of change can also be a time of great opportunity. That's why good financial advice is so important. Making the right decisions now about how you deal with your redundancy can help you maximise your payment, minimise the amount of tax you pay and ensure you can access any social security benefits you might be entitled to.

The choices you make will depend on your age, lifestyle, the size of your payment, your debt levels and your future job prospects. This is where a financial adviser can guide you through the range of options available and help you select the best choice for your situation.

Things to consider:

- Take time to think through all your work and lifestyle options before making any immediate decisions.
- Get advice from your financial adviser before you finish work so they can help optimise your benefits and payout structure.
- Seek out experts in career transition who can provide specialist tools and resources to get you back on track and working sooner.

1. If an earlier date of termination is required by your employer due to you reaching a particular age or you completing a particular period of service, then you must be dismissed before that earlier date.

   Currently, individuals aged 65 and over are not eligible to receive a genuine redundancy or early retirement scheme payment, including the tax-free amount, because of their age at the time of their dismissal or retirement. The Government announced in December 2018 that it will align the age below which individuals can receive genuine redundancy and early retirement scheme payments with the Age Pension qualifying age. **Exposure draft legislation** was released for consultation from 5 July 2019 – 1 August 2019. This measure was proposed to take effect from 1 July 2019 but to date has not yet been made law. Source: Mid-Year Economic and Fiscal Outlook 2018-19, December 2018, Genuine Redundancy Payments — aligning access to the tax-free component with the Age Pension age.

2. An arm's length transaction is one carried out by two parties with no connection between them, resulting in fair market value.

3. These tax concessions also apply to 'approved early retirement schemes'.

4. The taxable component of your ETP is concessionally taxed up to certain levels. Any taxable part of your ETP not related to genuine redundancy (e.g. it would be payable regardless of the reason for termination) may be subject to additional tax

Speak to us for more information

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