Australian Government
Australian Taxation Office

Working out the whole-of-income cap amount

The $180,000 whole-of-income cap is reduced by any other taxable income earned in the income year either before or after receiving the ETP.

For the purposes of withholding from the ETP, you work out the cap based on the employee's taxable income before they are terminated.

If the employee earns more taxable income in the same income year after the termination – for example, they get another job – they may pay more tax on their ETP when they lodge their tax return. This is because the taxable income earned after the termination will further reduce their whole-of-income cap.

Example: Applying the whole-of-income cap

Emilio is a 61-year-old former commercial pilot who retired from his job in November 2016. His taxable income from his wages in 2016–17 up to that point was $100,000. His employer paid him an ETP of $50,000, in the form of a gratuity.

Emilio's ETP is a non-excluded ETP, so the lesser of the two caps applies.

- Emilio's whole-of-income cap is reduced from $180,000 to $80,000 because he earned $100,000 in 2016–17.
- This is less than his ETP cap (/Rates/Schedule-11---Tax-table-for-employment-termination-payments/?page=2#ETP_caps) ($195,000 for 2016–17), so the calculated whole-of-income cap applies to his ETP.

Since Emilio's ETP ($50,000) is less than his calculated whole-of-income cap ($80,000), his entire ETP is taxed at concessional rates.

Emilio has reached his preservation age (/Rates/Schedule-11---Tax-table-for-employment-termination-payments/?page=6#Preservation_age), so his employer withholds tax at a rate of 17% from his ETP.

Other taxable income for whole-of-income cap

The whole-of-income cap takes into account other taxable income that the employee earns in the same income year. Other taxable income is simply assessable income minus deductions the employee is entitled to.

Taxable income includes:

- salary or wage income (including payments for overtime)
- bank interest
- bonuses
- accrued leave you may have been paid when your job was terminated
- the taxable component of other ETPs received earlier in the same income year – see Example: ETP paid in instalments (?anchor=ExampleETPpaidininstalments#ExampleETPpaidininstalments).

If the employee receives a lump sum payment for unused long service leave that accrued before 16 August 1978 (shown at label B on a PAYG payment summary – individual non-business), only 5% of this payment is included in other taxable income.

Taxable income does not include:

- reportable fringe benefits
- salary sacrifice items
- super guarantee
- reportable employer super contributions
- reimbursements of work-related expenses
- the taxable component of the excluded part of a single employment termination payment that is part excluded and part non-excluded – see
  - Example: Single ETP with excluded and non-excluded parts (?
  – anchor=ExampleSingleETPwithexcludedandnonexclu1#ExampleSingleETPwithexcludedandnonexclu1)
  - Example: Single ETP with excluded and non-excluded parts, and unused leave payments (?
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Example: Including taxable income in the whole-of-income cap

In August 2016, Tyrone is terminated from his job and receives a $100,000 gratuity and $20,000 for accrued leave. He also receives $5,000 in salary for the period from 1 July 2016 to the date of termination.

Tyrone's whole-of-income cap is reduced from $180,000 to $155,000 because he received $25,000 salary and accrued leave payment.

Because Tyrone has not reached his preservation age, his employer withholds 32% in tax from the $100,000 ETP. Tyrone's employer gives him a PAYG payment summary – employment termination payment showing:

- Total tax withheld: $32,000
- Date of payment: 15 August 2016
- Taxable component: $100,000
- Tax-free component: Nil
- ETP code: **O**.

Tyrone gets a new job in September 2016 and earns a further $60,000 salary in the 2016–17 income year.

When calculating the tax on Tyrone's ETP at the end of the income year, his calculated whole-of-income cap is further reduced to $95,000 – that is, $180,000 less:

- $5,000 salary from his first job
- $20,000 accrued leave payment
- $60,000 salary from his second job.

As Tyrone's ETP of $100,000 is greater than his whole- of- income cap of $95,000, an amount of $5,000 will be taxed at the highest tax rates (49% in the 2016-17) when he submits his tax return. Tyrone will need to pay an additional 17% tax on the $5,000 (49% minus the 32% already withheld by his employer). As a result, Tyrone will have a tax debt of $850.

Tax losses and the whole-of-income cap

Tax losses are not taken into account in working out the whole-of-income cap.

Example: ETPs and tax losses

Mike retires on 1 July 2016 and receives an ETP of $200,000. The ETP is subject to the whole-of-income cap of $180,000. Mike's employer withholds at concessional tax rates from $180,000 of the ETP, and at the highest tax rate (49% in 2016–17) from the $20,000 that is above the cap.

Mike has some negatively geared investments. He has a tax loss of $20,000 and a nil taxable income (not including ETPs) in 2016–17.

Mike's whole-of-income cap remains at $180,000 because his taxable income is nil.

Next steps:

- Multiple payments (?anchor=Multiplepayments#Multiplepayments)
- Withholding and payment summaries (?anchor=Withholdingandpaymentsummary#Withholdingandpaymentsummary)

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