Redundancy, death benefits and unused leave

MODULE 4 | 4.3.2 | STUDENT COMPANION

Genuine redundancy and approved early retirement scheme payments are tax-free up to $12,524 plus $6,264 for each whole year of service in 2024-25, and any excess is taxed as an ETP. Death benefit termination payments are taxed according to whether the recipient was a dependant. Unused annual and long service leave are not ETPs: their treatment depends on when the leave accrued and why the job ended.

Genuine redundancy payments

The idea. The position disappears, not just the person - a dismissal because the job is genuinely redundant, usually as the employer reduces its workforce (s 83-175).

Conditions. (1) Dismissed before pension age (67 for 2024-25) or any earlier age or service period at which the job would have ended; (2) if not at arm's length, no more than an arm's length amount; (3) no arrangement at dismissal to employ the person again, with the employer or anyone else.

Tax-free amount. Base amount + service amount × whole years (s 83-170). Reported as Lump Sum D; no PAYG withholding.

The excess is an ETP and an excluded payment: ETP cap only, taxed at 15% or 30% by preservation age, plus Medicare.

1. The formula (s 83-170)	Tax-free amount = base amount + (service amount × whole years of completed service). Year ended 30 June 2025: base **$12,524**; service amount **$6,264**. Part years are ignored.
2. Hortensia's tax-free amount	9 whole years × $6,264 = $56,376. Plus base $12,524 = **$68,900**. Shown as Lump Sum D on her income statement; no withholding.
3. The excess	$88,900 - $68,900 = **$20,000**. The excess is an ETP - an excluded payment, so only the ETP cap of $245,000 applies.
4. The tax	Under preservation age (60) at 30 June 2025, so 30%: $20,000 × 30% = $6,000, plus Medicare levy 2% = **$400**. (At or over preservation age it would be 15%.)

Past pension age? The payment is not a genuine redundancy payment, so there is no tax-free amount and the whole payment is an ETP. If it fails only because of the age, it is still treated as an excluded payment, so only the ETP cap applies.

Early retirement scheme payments

An employer rationalising or reorganising its operations offers an incentive to retire (s 83-180). The Commissioner must approve the scheme before it is implemented, and it must be open to all employees in a class the Commissioner approves. Only the amount above what a voluntary resignation would have brought qualifies. The same three conditions (with retirement in place of dismissal) and the same formula apply.

Death benefit termination payments

Received by someone else after an employee's death, in consequence of the termination. No invalidity segment: the tax-free component is the pre-July 83 segment only.

DEPENDANT

Who

- The deceased's spouse or former spouse
- A child under 18
- Anyone financially dependent on the deceased just before the death
- Anyone in an interdependency relationship with the deceased just before the death

Tax on the taxable component

First $245,000	Tax-free
Above $245,000	45% plus 2% Medicare levy

NON-DEPENDANT

Who

- Anyone else - for example, an adult child who supports themselves.

Tax on the taxable component

First $245,000	Up to 30% plus 2% Medicare levy
Above $245,000	45% plus 2% Medicare levy

Example. $100,000 of taxable component paid to a widow: no tax. Paid to a self-supporting adult daughter: up to $30,000 tax plus $2,000 Medicare.

Unused annual leave and long service leave

Leave	Accrued	Amount assessable	Maximum rate (plus 2% Medicare)
Ordinary termination			
Annual leave	Before 18 August 1993	100%	30%
Annual leave	From 18 August 1993	100%	Marginal rate
Long service leave	Before 16 August 1978	5% (95% exempt)	Marginal rate
Long service leave	16 August 1978 to 17 August 1993	100%	30%
Long service leave	From 18 August 1993	100%	Marginal rate
Genuine redundancy, early retirement scheme or invalidity			
Annual leave	Any date	100%	30%
Long service leave	Before 16 August 1978	5% (95% exempt)	Marginal rate
Long service leave	16 August 1978 to 17 August 1993	100%	30%
Long service leave	From 18 August 1993	100%	30%

Split a payment between periods by days: **payment × unused days in the period / total unused days**.

Apportion by days. A long service leave payment of $20,000 for 100 days (10 before 16 August 1978, 40 in the middle period, 50 since): $2,000 of which 5% ($100) is assessable; $8,000 assessable with tax capped at 30% ($2,400 at most); $10,000 at marginal rates.

Key figures for 2024-25

Item	Figure
Redundancy/ERS base amount	$12,524
Redundancy/ERS service amount	$6,264 per whole year
Pension age	67
ETP cap (redundancy/ERS excess, death benefits)	$245,000
Life ETP rates up to cap	15% (preservation age reached) or 30% + 2% Medicare
Death benefit - dependant	First $245,000 tax-free; above, 45% + 2% Medicare
Death benefit - non-dependant	First $245,000 up to 30% + 2% Medicare; above, 45% + 2% Medicare
Leave cut-off dates	16 August 1978 (long service leave); 18 August 1993 (both)
Pre-16 August 1978 long service leave	5% assessable

Practice questions

MODULE 4 | 4.3.2 | TRY THESE BEFORE THE WORKED ANSWERS

Question 1 - Three departures from Mossvale Weaving Mill

Mossvale Weaving Mill is closing its dyeing section in 2024-25. None of these employees worked for the mill before 1 July 1983. (a) Radomir Kettleby, aged 48, is dismissed because his position is abolished. He has 14 years and 5 months of service and receives a genuine redundancy payment of $110,220. Calculate his tax-free amount and the tax on any excess. (b) Vesna Ormerod, aged 68, is dismissed when her position is abolished after 20 years of service. She receives $60,000. Her salary for the year is $150,000. Explain whether any of the $60,000 is tax-free, and calculate the tax on it. (c) Magnus Prideaux, aged 61, retires under an early retirement scheme the Commissioner approved before it was implemented. He has 22 years and 9 months of service and receives $160,332 more than he would have received on resigning voluntarily. Calculate his tax-free amount and the tax on any excess.

Question 2 - A death benefit

Barnabus Tremayne dies while employed. In 2024-25 his employer pays a death benefit termination payment with a taxable component of $300,000 (all his service was after 1 July 1983). (a) Calculate the tax if the payment goes to his widow, Wilfreda Tremayne. (b) Calculate the tax if it goes instead to his brother, Barclay Tremayne, who supports himself. (c) Which of these relatives are dependants? His former wife; his son aged 16; his daughter aged 24, who works full time and supports herself; his mother, who relied on him to meet her living costs just before his death; his brother Barclay.

Question 3 - Unused leave

Ermintrude Vanstone resigns from Yarraby Books in June 2025 after a long career as a bookseller. She is paid:

- $9,000 for 30 days of unused annual leave, of which 6 days accrued before 18 August 1993;
- $30,000 for 150 days of unused long service leave, of which 15 days accrued before 16 August 1978, 60 days between 16 August 1978 and 17 August 1993, and 75 days from 18 August 1993.

(a) Apportion each payment between its periods. (b) State the assessable amount and the maximum rate for each part, and the total assessable amount. (c) What would change if she had left because of a genuine redundancy?

Worked answers

MODULE 4 | 4.3.2 | WORKED ANSWERS - ATTEMPT THE QUESTIONS FIRST

Answer 1 - Three departures from Mossvale Weaving Mill

(a) Radomir Kettleby

Step	Working
Tax-free amount	$12,524 + 14 whole years × $6,264 = $12,524 + $87,696 = **$100,220** (the 5 months are ignored)
Excess	$110,220 - $100,220 = **$10,000**, an ETP and an excluded payment, so only the $245,000 ETP cap applies
Tax	Radomir (48) is under preservation age: 30% × $10,000 = **$3,000**, plus Medicare 2% = **$200**

(b) Vesna was dismissed after reaching pension age (67), so the payment is not a genuine redundancy payment: none of it is tax-free and the whole $60,000 is an ETP (taxable component, no pre-July 83 service). Because it would have been a genuine redundancy but for her age, it is an excluded payment, so only the ETP cap of $245,000 applies and her $150,000 salary does not reduce it. She has reached preservation age: tax = 15% × $60,000 = $9,000, plus Medicare 2% = $1,200. (Had it been non-excluded, her cap would have been only $180,000 - $150,000 = $30,000.)

(c) Magnus Prideaux

Step	Working
Tax-free amount	$12,524 + 22 whole years × $6,264 = $12,524 + $137,808 = **$150,332** (the 9 months are ignored)
Excess	$160,332 - $150,332 = **$10,000**, an excluded ETP
Tax	Magnus (61) has reached preservation age: 15% × $10,000 = **$1,500**, plus Medicare 2% = **$200**

Answer 2 - A death benefit

(a) and (b) Tax on the $300,000

Recipient	Tax-free	Taxed at 30% or 45%	Tax	Medicare	Total
(a) Wilfreda, spouse (a dependant)	First $245,000	Excess $300,000 - $245,000 = $55,000 × 45% = $24,750	$24,750	2% × $55,000 = $1,100	**$25,850**
(b) Barclay, brother (a non-dependant)	None	$245,000 × 30% = $73,500 plus $55,000 × 45% = $24,750	$98,250	2% × $300,000 = $6,000	**$104,250**

(a) Wilfreda, as his spouse, is a dependant. First $245,000: tax-free. Excess $300,000 - $245,000 = $55,000 × 45% = $24,750, plus Medicare 2% × $55,000 = $1,100. Total $25,850.

(b) Barclay is a non-dependant. $245,000 × 30% = $73,500 plus $55,000 × 45% = $24,750; total tax $98,250, plus Medicare 2% × $300,000 = $6,000. Total $104,250.

(c) Dependants: his former wife (a former spouse), his son aged 16 (a child under 18) and his mother (financially dependent on him just before his death). Not dependants: his self-supporting daughter aged 24 and his brother Barclay.

Answer 3 - Ermintrude Vanstone's unused leave

Leave and period	Apportioned payment	Assessable amount	Maximum rate
Annual leave, before 18 August 1993	$9,000 × 6/30 = $1,800	$1,800 (100%)	30%
Annual leave, from 18 August 1993	$9,000 × 24/30 = $7,200	$7,200 (100%)	Marginal rates
Long service leave, before 16 August 1978	$30,000 × 15/150 = $3,000	5% × $3,000 = $150 (the other $2,850 is exempt)	Marginal rates
Long service leave, 16 August 1978 to 17 August 1993	$30,000 × 60/150 = $12,000	$12,000 (100%)	30% (tax no more than $3,600)
Long service leave, from 18 August 1993	$30,000 × 75/150 = $15,000	$15,000 (100%)	Marginal rates
Total assessable		**$1,800 + $7,200 + $150 + $12,000 + $15,000 = $36,150**	

(a) Annual leave: before 18 August 1993 = $9,000 × 6/30 = $1,800; from 18 August 1993 = $9,000 × 24/30 = $7,200. Long service leave: before 16 August 1978 = $30,000 × 15/150 = $3,000; 16 August 1978 to 17 August 1993 = $30,000 × 60/150 = $12,000; from 18 August 1993 = $30,000 × 75/150 = $15,000.

(b) Annual leave: $1,800 fully assessable, maximum 30%; $7,200 fully assessable at marginal rates. Long service leave: 5% × $3,000 = $150 assessable at marginal rates (the other $2,850 is exempt); $12,000 fully assessable, maximum 30% (tax no more than $3,600); $15,000 fully assessable at marginal rates. Total assessable = $1,800 + $7,200 + $150 + $12,000 + $15,000 = $36,150. Medicare levy of 2% applies on top.

(c) With a genuine redundancy, all of the annual leave ($9,000) is capped at 30%, and the long service leave accrued from 18 August 1993 ($15,000) is also capped at 30% instead of being taxed at marginal rates. The pre-16 August 1978 long service leave is unchanged (5% assessable at marginal rates), and the assessable total is still $36,150.