



Radiocommunications Taxes Collection Regulations 1985

Statutory Rules 1985 No. 200 as amended

made under the

Radiocommunications Taxes Collection Act 1983

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1 Name of Regulations [see Note 1]

These Regulations are the *Radiocommunications Taxes Collection Regulations 1985*.

2 Interpretation

In these Regulations, unless the contrary intention appears:

Act means the *Radiocommunications Taxes Collection Act 1983*.

public mobile telecommunications service, Class B means a service consisting of two or more base stations operated:

- (a) for the purposes of providing public mobile telecommunications services; and
- (b) by a person who holds a public mobile licence under section 57 of the *Telecommunications Act 1991*; and
- (c) on a frequency or frequencies in the range 935 MHz to 960 MHz (inclusive).

transmitter licence tax means the tax imposed by the *Radiocommunications (Transmitter Licence Tax) Act 1983* on the issue of a transmitter licence.

4 Refund on surrender of licence

(1) Where:

- (a) the Spectrum Manager has issued an apparatus licence to a person; and
- (b) the licensee surrenders the licence before the day specified in the licence for the expiration of the licence;

the licensee is entitled, subject to this regulation, to a refund in respect of the tax paid on the issue of the licence of an amount ascertained in accordance with subregulation (2).

(2) Where a person is entitled to a refund under this regulation, the amount of the refund is, subject to subregulation (3), an amount that bears the same proportion to the amount of tax paid on the issue of the licence as the number of days in the period

commencing on the day on which the licence was surrendered and ending at the expiration of the day specified in the licence for the expiration of the licence bears to the number of days for which the licence was issued.

- (3) If the amount of a refund calculated under subregulation (2) is less than \$30, the amount is not payable.

4A Refund on cancellation of instrument

- (1) Where:
- (a) the Spectrum Manager has issued an instrument (other than a permit issued under section 167 of the *Radiocommunications Act 1992*) to a person; and
 - (b) the Spectrum Manager subsequently cancels the instrument for a reason other than a contravention of:
 - (i) a provision of the *Radiocommunications Act 1992*; or
 - (ii) a provision of regulations under that Act relating to the instrument; or
 - (iii) a condition subject to which the instrument was issued;

that person is entitled, subject to this regulation, to a refund of the tax paid on the issue of the instrument of an amount ascertained in accordance with subregulation (2).

- (2) Where a person is entitled to a refund under this regulation, the amount of the refund is, subject to subregulation (3), an amount that bears the same proportion to the amount of tax paid on the issue of the instrument as the number of days in the period commencing on the day on which the instrument was cancelled and ending at the expiry of the day specified in the instrument for the expiry of the instrument bears to the number of days for which the instrument was issued.
- (3) If the amount of a refund calculated under subregulation (2) is less than \$30, the amount is not payable.
- (4) This regulation does not apply in relation to a person or licensee who is entitled to a refund under regulation 4.

4B Withdrawal of AMPS spectrum (Melbourne and Sydney)

A refund of \$828,774 is payable to Telstra Corporation Limited (*Telstra*) for the withdrawal, on and from 1 January 1997, of 3 megahertz (MHz) in the 880 MHz to 890 MHz band in the Sydney and Melbourne regions from the Public Mobile Telecommunications Service Class A licence held by Telstra until 19 May 1997.

Note The amount of \$828,774 is derived from the formula:

$$\$362,713 \times 3 \times 2 \times (139 \div 365) = \$828,774.36 \text{ (rounded to } \$828,774)$$

where:

- \$362,713 is the annual amount of tax per MHz per city paid by Telstra for the licence;
- 3 is the number of MHz withdrawn;
- 2 is the number of cities where the spectrum was in use;
- 139 is the number of days' use of the spectrum that Telstra had paid for, and lost because of the withdrawal.

5 Exemption from tax

- (2) For the purposes of section 8 of the Act, the following persons are exempt from the payment of tax in respect of apparatus licences, namely, any person to whom such a licence is issued in respect of any transmitter or receiver to be operated for the purposes of a diplomatic or consular mission of a country established in Australia with the consent of the Commonwealth.
- (3) In subregulation (2), *country* has the same meaning as in the *Diplomatic and Consular Missions Act 1978*.
- (4) For the purposes of section 8 of the Act, a body corporate that is a body to which subregulation (7) or (8) applies is exempt from the payment of tax in respect of an apparatus licence issued to the body in respect of a transmitter or receiver that is operated solely or principally for the purposes of the body.
- (5) For the purposes of section 8 of the Act, a person is exempt from the payment of tax in respect of an apparatus licence issued to the person in respect of a transmitter or receiver as a member or representative of an unincorporated body to which

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subregulation (7) or (8) applies if the transmitter or receiver is operated solely or principally for the purposes of that body.

- (6) For the purposes of section 8 of the Act, a person is exempt from the payment of tax in respect of an apparatus licence issued to the person in respect of a transmitter or receiver that is operated solely or principally for the purpose of assisting a body to which subregulation (7) or (8) applies.
- (7) This subregulation applies to a body:
 - (a) that is staffed principally by volunteers; and
 - (b) that is a body of a kind referred to in one of the following provisions of the *Income Tax Assessment Act 1997*:
 - (i) section 50-5;
 - (ii) item 2.1 of section 50-10;
 - (iii) section 50-25; and
 - (c) the income of which is exempt under the provision mentioned in paragraph (b) that applies to the body; and
 - (d) the principal purpose of which is to provide emergency services or services for the safeguarding of human life, including any of the following services:
 - (i) rural fire fighting;
 - (ii) search and rescue;
 - (iii) coastguard.

Note A body of the kind mentioned in paragraph 5 (7) (b) that paid tax in respect of apparatus licences between 1 July 1997 and 2007 may be entitled to a refund of the amount of the tax because of amendments of these Regulations that were made in 2007 with retrospective effect to 1 July 1997.

- (8) This subregulation applies to a body the principal purpose of which is to provide:
 - (a) surf life saving services; or
 - (b) ambulance services in an area that is part of the area described in Schedule 2 to the *Income Tax Assessment Act 1936*.

6 Remission of transmitter licence tax on cordless telephones

- (1) A person is entitled to a remission of 50% of the transmitter licence tax payable on the first grant of a cordless telephone system service transmitter licence to him or her after 26 November 1991.
- (2) A person is entitled to a remission of 25% of the transmitter licence tax payable on the second grant of a cordless telephone system service transmitter licence to him or her after 26 November 1991.

7 Payment of transmitter licence tax on public mobile telecommunications service licence

- (1) The annual instalment referred to in paragraph 3A (1) (a) of the Radiocommunications (Transmitter Licence Tax) Regulations is to be paid on the issue of the licence.
- (2) An annual instalment referred to in paragraph 3A (1) (b) of the Radiocommunications (Transmitter Licence Tax) Regulations is to be paid on the respective anniversary of the issue of the licence.
- (3) The amount referred to in paragraph 3A (1) (c) of the Radiocommunications (Transmitter Licence Tax) Regulations is to be paid on the last anniversary occurring before the licence expires.

8 Remission of transmitter licence tax on public mobile telecommunications licence, Class B

- (1) The holder of a public mobile telecommunications service, Class B licence issued on or before 30 November 1995 is entitled to a remission of instalments of the transmitter licence tax payable on or before that date.
- (2) Subject to subregulation (2A), the rate of remission of instalments is:
 - (a) for an instalment to be paid on or before 30 November 1992 — 80%; and

- (b) for an instalment to be paid on or after 1 December 1992 but before 1 December 1993 — 60%; and
 - (c) for an instalment to be paid on or after 1 December 1993 but before 1 December 1994 — 40%; and
 - (d) for an instalment to be paid on or after 1 December 1994 but before 1 December 1995 — 20%.
- (2A) In the case of a licence issued on or after 1 March 1995, the rate of remission specified in paragraph (2) (d) applies only to a proportion of an instalment mentioned in that paragraph, namely the proportion worked out in accordance with the formula:

$$\frac{\text{Amount A}}{\text{No. of Instalments}} ;$$

where:

Amount A is the amount worked out using the formula:

$$\frac{\text{licence period} \times \text{annual amount}}{365}; \text{ and}$$

annual amount is the amount equal to \$734,132 for each megahertz of spectrum on which, under the licence, the base stations are licensed to operate as part of the service; and

licence period is the number of days in the period beginning on the day on which the licence commences and ending at the end of the day on which the licence ends; and

No. of Instalments is the number of instalments by which the tax is payable.

- (3) In this regulation, **instalment** includes an amount referred to in paragraph 3A (1) (c) of the Radiocommunications (Transmitter Licence Tax) Regulations.

9 Refund of overpayments of transmitter licence tax on public mobile telecommunications service, Class A licence

- (1) The holder of a public mobile telecommunications service, Class A licence in respect of which an annual instalment in

respect of the Brisbane region has been paid at the rate in force immediately before the date of commencement of this regulation for a period that ends on or after that date, is entitled to a refund calculated using the formula:

$$\frac{\text{NDR} \times \$435\,000 \times \text{NMS}}{365}$$

where:

NDR is the number of days in the period commencing on the date of commencement of this regulation and ending at the expiration of the first-mentioned period; and

NMS is the number of MHz of spectrum to which that annual instalment relates.

- (2) In this regulation, *annual instalment*, *Brisbane region* and *public mobile telecommunications service, Class A licence* have the same respective meanings as in regulation 3A of the Radiocommunications (Transmitter Licence Tax) Regulations.

Table of Instruments

Notes to the *Radiocommunications Taxes Collection Regulations 1985***Note 1**

The *Radiocommunications Taxes Collection Regulations 1985* (in force under the *Radiocommunications Taxes Collection Act 1983*) as shown in this compilation comprise Statutory Rules 1985 No. 200 amended as indicated in the Tables below.

Under the *Legislative Instruments Act 2003*, which came into force on 1 January 2005, it is a requirement for all non-exempt legislative instruments to be registered on the Federal Register of Legislative Instruments. From 1 January 2005 the Statutory Rules series ceased to exist and was replaced with Select Legislative Instruments (SLI series). Numbering conventions remain the same, ie Year and Number.

Table of Instruments

Year and number	Date of notification in Gazette or FRLI registration	Date of commencement	Application, saving or transitional provisions
1985 No. 200	19 Aug 1985	20 Aug 1985 (<i>see Gazette</i> 1985, No. S322)	
1989 No. 355	7 Dec 1989	7 Dec 1989	—
1991 No. 361	25 Nov 1991	25 Nov 1991	—
1992 No. 388	11 Dec 1992	11 Dec 1992	—
1993 No. 178	30 June 1993	1 July 1993	—
1995 No. 36	14 Mar 1995	14 Mar 1995	—
1995 No. 63	31 Mar 1995	3 Apr 1995	—
1995 No. 130	15 June 1995	3 Apr 1995	—
1997 No. 158	30 June 1997	30 June 1997	—
2007 No. 142	12 June 2007 (<i>see</i> F2007L01545)	Rr. 1–3 and Schedule 1: 1 July 1997 Remainder: 13 June 2007	—

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
R. 1	rs. 2007 No. 142
R. 2	rs. 1991 No. 361 am. 1993 No. 178
R. 3	am. 1989 No. 355 rep. 1995 No. 63
R. 4	am. 1993 No. 178; 1995 No. 63
R. 4A.....	ad. 1989 No. 355 am. 1993 No. 178; 1995 No. 63; 2007 No. 142
R. 4B.....	ad. 1997 No. 158
R. 5	am. 1993 No. 178; 1995 Nos. 63 and 130; 2007 No. 142
Note to r. 5 (7).....	ad. 2007 No. 142
R. 6	ad. 1991 No. 361
R. 7	ad. 1991 No. 361 am. 1993 No. 178
R. 8	ad. 1991 No. 361 am. 1993 No. 178; 1995 No. 36
R. 9	ad. 1992 No. 388