Radiocommunications Taxes Collection Act 1983

No. 133, 1983

Compilation No. 11

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Prepared by the Office of Parliamentary Counsel, Canberra

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About this compilation

This compilation

This is a compilation of the *Radiocommunications Taxes Collection Act 1983* that shows the text of the law as amended and in force on 2 March 2019 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act to provide for the collection of taxes imposed in relation to the *Radiocommunications Act 1992*

1 Short title

This Act may be cited as the *Radiocommunications Taxes Collection Act 1983*.

2 Commencement

This Act shall come into operation on the date fixed for the purposes of subsection 2(1) of the *Radiocommunications Act 1983*.

3 Incorporation of Radiocommunications Act

The *Radiocommunications Act 1992* is incorporated and shall be read as one with this Act.

4 Interpretation

In this Act, unless the contrary intention appears:

initial holding date has the same meaning as in the *Radiocommunications (Spectrum Licence Tax) Act 1997*.

instrument means a licence or a permit.

tax means apparatus licence tax or spectrum licence tax.

4A Transmitter licence associated with a commercial broadcasting licence

For the purposes of this Act, the question whether a transmitter licence is ***associated with a commercial broadcasting licence*** is to be determined in the same manner as that question is determined for the purposes of the *Commercial Broadcasting (Tax) Act 2017*.

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5 Application of Radiocommunications Act

Part 1.4 of the *Radiocommunications Act 1992* applies to this Act in the same manner that it applies to that Act.

6 By whom tax payable

(1) The apparatus licence tax on the issue, the anniversary of the issue or the holding of an instrument is payable by the holder of the instrument.

(2) The spectrum licence tax on the initial holding date for a spectrum licence, or on an anniversary of the initial holding date for a spectrum licence, is payable by the licensee.

7 Time of payment

(1) The apparatus licence tax imposed on the issue of an instrument is payable on the issue of the instrument.

(2) The apparatus licence tax imposed on the anniversary of the day on which an instrument came into force is payable on that anniversary.

(3) The apparatus licence tax imposed on the holding of an instrument on the anniversary of the day on which the instrument came into force is payable on that anniversary.

(4) The apparatus licence tax imposed on the holding of an instrument 60 days after the anniversary of the day on which the instrument came into force is payable on the day after the end of that period.

(5) The spectrum licence tax imposed on the initial holding date for a spectrum licence is payable 60 days after that date.

(6) The spectrum licence tax imposed on an anniversary of the initial holding date for a spectrum licence is payable 60 days after that anniversary.

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7A Unpaid tax penalty determinations

(1) The ACMA may make determinations in writing for, and in relation to, the penalty payable by the holder of an instrument to the Commonwealth in relation to apparatus licence tax that remains unpaid after the due day.

(1A) The ACMA may make determinations in writing for, and in relation to, the penalty payable by the licensee for a spectrum licence in relation to spectrum licence tax that remains unpaid after the due day.

(1B) If there is an overpayment of penalty, the overpayment is to be refunded by the ACMA on behalf of the Commonwealth.

(2) A determination under subsection (1) or (1A) is a legislative instrument.

8 Exemptions from tax

(1) The regulations may exempt persons included in specified classes of persons from the payment of apparatus licence tax in respect of instruments included in specified classes of instruments.

(2) The regulations may exempt persons included in specified classes of persons from the payment of spectrum licence tax in relation to spectrum licences included in specified classes of spectrum licences.

9 Statutory corporations to be subject to tax

(1) Notwithstanding any law of the Commonwealth passed or made before the commencement of this Act but subject to any regulations referred to in section 8, a corporation established by or under a law of the Commonwealth or of a Territory is subject to apparatus licence tax.

(2) Despite any law of the Commonwealth passed or made before the commencement of this subsection but subject to any regulations referred to in section 8, a corporation established by or under a law

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of the Commonwealth or of a Territory is subject to spectrum licence tax.

10 Recovery of tax

Tax that is due may be recovered as a debt due to the Commonwealth.

10A Collection of taxes on behalf of the Commonwealth

The ACMA may enter into arrangements with persons or other bodies under which those persons or other bodies may, on the Commonwealth's behalf, receive from persons payments of tax.

10B Refund of overpayments

If there is an overpayment of tax, the overpayment is to be refunded by the ACMA on behalf of the Commonwealth.

10C Pro-rata refund of tax imposed on the issue of a transmitter licence

(1) If:

(a) a transmitter licence was issued to a person under section 100 or 102 of the *Radiocommunications Act 1992* before 1 July 2017; and

(b) the transmitter licence is associated with a commercial broadcasting licence; and

(c) the transmitter licence was in force at the start of 1 July 2017; and

(d) tax was imposed by subsection 6(1), (2) or (7) of the *Radiocommunications (Transmitter Licence Tax) Act 1983* on the issue of the transmitter licence during the financial year ending on 30 June 2017; and

(e) the person has paid the tax;

the amount worked out using the following formula must be refunded by the ACMA on behalf of the Commonwealth:

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$$\frac{\text{Days in post-1 July 2017 period}}{\text{Days in period of transmitter licence}} \times \text{Amount of tax paid}$$

where:

days in period of transmitter licence means the number of days in the period of the transmitter licence.

days in post-1 July 2017 period means the number of days in the period:

(a) beginning at the start of 1 July 2017; and

(b) ending at the end of the period of the transmitter licence.

(2) If:

(a) a transmitter licence was issued to a person under section 100 or 102 of the *Radiocommunications Act 1992* before 1 July 2017; and

(b) the transmitter licence is associated with a commercial broadcasting licence; and

(c) the transmitter licence was in force at the start of 1 July 2017; and

(d) tax was imposed by subsection 6(3) or (8) of the *Radiocommunications (Transmitter Licence Tax) Act 1983* on the issue of the transmitter licence; and

(e) the person has paid the tax;

the amount worked out using the following formula must be refunded by the ACMA on behalf of the Commonwealth:

$$\frac{\text{Days in post-1 July 2017 period}}{\text{Post-issue period}} \times \text{Amount of tax paid}$$

where:

days in post-1 July 2017 period means the number of days in the period:

(a) beginning at the start of 1 July 2017; and

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(b) ending at the end of the anniversary of the day the transmitter licence came into force that occurs during the financial year ending on 30 June 2018.

post-issue period means the number of days in the period:

(a) beginning at the start of the day after the transmitter licence was issued; and

(b) ending at the end of the anniversary of the day the transmitter licence came into force that occurs during the financial year ending on 30 June 2018.

(3) For the purposes of this section, disregard:

(a) Division 6 of Part 3.3 of the *Radiocommunications Act 1992*; and

(b) Part 10 of the *Broadcasting Services Act 1992*;

in working out the period of a transmitter licence.

Note 1: See subsection 103(2) of the *Radiocommunications Act 1992*, which deals with the duration of transmitter licences issued under section 100 of that Act.

Note 2: See subsection 103(4A) of the *Radiocommunications Act 1992*, which deals with the duration of transmitter licences issued under section 102 of that Act.

10D Pro-rata refund of tax imposed on the anniversary of the day a transmitter licence came into force

(1) If:

(a) a transmitter licence was issued to a person under section 100 or 102 of the *Radiocommunications Act 1992* before 1 July 2017; and

(b) the transmitter licence is associated with a commercial broadcasting licence; and

(c) the transmitter licence was in force at the start of 1 July 2017; and

(d) tax was imposed by subsection 6(3) or (8) of the *Radiocommunications (Transmitter Licence Tax) Act 1983* on the anniversary of the day the transmitter licence came

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into force that occurred during the financial year ending on 30 June 2017; and

(e) the person has paid the tax;

the amount worked out using the following formula must be refunded by the ACMA on behalf of the Commonwealth:

$$\frac{\text{Days in post-1 July 2017 period}}{\text{Post-anniversary period}} \times \text{Amount of tax paid}$$

where:

days in post-1 July 2017 period means the number of days in the period:

(a) beginning at the start of 1 July 2017; and

(b) ending at whichever is the earlier of the following:

(i) the end of the anniversary of the day the transmitter licence came into force that occurs during the financial year ending on 30 June 2018;

(ii) the end of the period of the transmitter licence.

post-anniversary period means the number of days in the period:

(a) beginning at the start of the anniversary mentioned in paragraph (d); and

(b) ending at whichever is the earlier of the following:

(i) the end of the anniversary of the day the transmitter licence came into force that occurs during the financial year ending on 30 June 2018;

(ii) the end of the period of the transmitter licence.

(2) If:

(a) a transmitter licence was issued to a person under section 100 or 102 of the *Radiocommunications Act 1992* before 1 July 2017; and

(b) the transmitter licence is associated with a commercial broadcasting licence; and

(c) the transmitter licence was in force at the start of 1 July 2017; and

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(d) tax was imposed by subsection 6(5) or (11) of the *Radiocommunications (Transmitter Licence Tax) Act 1983* on the holding of the transmitter licence on an anniversary of the day the transmitter licence came into force that occurred before 1 July 2017; and

(e) the person has paid the tax;

the amount worked out using the following formula must be refunded by the ACMA on behalf of the Commonwealth:

$$\frac{\text{Days in post-1 July 2017 period}}{\text{Post-anniversary period}} \times \text{Amount of tax paid}$$

where:

days in post-1 July 2017 period means the number of days in the period:

(a) beginning at the start of 1 July 2017; and

(b) ending at the end of the period of the transmitter licence.

post-anniversary period means the number of days in the period:

(a) beginning at the start of the anniversary mentioned in paragraph (d); and

(b) ending at the end of the period of the transmitter licence.

(3) For the purposes of this section, disregard:

(a) Division 6 of Part 3.3 of the *Radiocommunications Act 1992*; and

(b) Part 10 of the *Broadcasting Services Act 1992*;

in working out the period of a transmitter licence.

Note 1: See subsection 103(2) of the *Radiocommunications Act 1992*, which deals with the duration of transmitter licences issued under section 100 of that Act.

Note 2: See subsection 103(4A) of the *Radiocommunications Act 1992*, which deals with the duration of transmitter licences issued under section 102 of that Act.

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10E Set-off

If:

(a) an amount of interim tax is payable by a person (the ***first amount***); and

(b) an amount is payable by the Commonwealth to the person under section 10B, 10C or 10D (the ***second amount***);

the ACMA may, on behalf of the Commonwealth, set off the whole or a part of the first amount against the whole or a part of the second amount.

11 Regulations

(1) The Governor-General may make regulations, not inconsistent with this Act, prescribing matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting the generality of subsection (1), regulations made under that subsection may make provision for or in relation to:

(a) the manner of payment of tax; and

(b) the remission or refund of tax in specified circumstances.

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Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history

Abbreviation key—Endnote 2
The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4
Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes
The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments
A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

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be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation "(md)" added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation "(md not incorp)" is added to the details of the amendment included in the amendment history.

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Endnote 2—Abbreviation key

ad = added or inserted

am = amended

amdt = amendment

c = clause(s)

C[x] = Compilation No. x

Ch = Chapter(s)

def = definition(s)

Dict = Dictionary

disallowed = disallowed by Parliament

Div = Division(s)

ed = editorial change

exp = expires/expired or ceases/ceased to have effect

F = Federal Register of Legislation

gaz = gazette

LA = *Legislation Act 2003*

LIA = *Legislative Instruments Act 2003*

(md) = misdescribed amendment can be given effect

(md not incorp) = misdescribed amendment cannot be given effect

mod = modified/modification

No. = Number(s)

o = order(s)

Ord = Ordinance

orig = original

par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)

pres = present

prev = previous

(prev…) = previously

Pt = Part(s)

r = regulation(s)/rule(s)

reloc = relocated

renum = renumbered

rep = repealed

rs = repealed and substituted

s = section(s)/subsection(s)

Sch = Schedule(s)

Sdiv = Subdivision(s)

SLI = Select Legislative Instrument

SR = Statutory Rules

Sub-Ch = Sub-Chapter(s)

SubPt = Subpart(s)

underlining = whole or part not commenced or to be commenced

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Radiocommunications Taxes Collection Act 1983	133, 1983	22 Dec 1983	20 Aug 1985 (s 2 and gaz 1985, No S322)	
Radiocommunications Taxes Collection Amendment Act 1992	145, 1992	7 Dec 1992	1 July 1993 (s 3)	—
Radiocommunications Taxes Collection Amendment Act 1995	109, 1995	29 Sept 1995	29 Mar 1996 (s 2(2))	—
Telecommunications (Transitional Provisions and Consequential Amendments) Act 1997	59, 1997	3 May 1997	Sch 1 (items 43–47): 1 July 1997 (s 2(2)(d))	Sch 1 (items 46, 47)
Radiocommunications Legislation Amendment Act 1997	145, 1997	9 Oct 1997	Sch 1 (items 9–24): 9 Oct 1997 (s 2(1))	—
Radiocommunications Legislation Amendment Act 2000	34, 2000	3 May 2000	Sch 2 (items 24–26) and Sch 3 (item 4): 31 May 2000 (s 2)	Sch 3 (item 4)
Australian Communications and Media Authority (Consequential and Transitional Provisions) Act 2005	45, 2005	1 Apr 2005	Sch 2 and Sch 4: 1 July 2005 (s 2(1) items 3, 10)	Sch 4
as amended by				
Omnibus Repeal Day (Autumn 2014) Act 2014	109, 2014	16 Oct 2014	Sch 2 (items 177–181): 17 Oct 2014 (s 2(1) item 2)	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Statute Law Revision Act 2013	103, 2013	29 June 2013	Sch 3 (items 186, 343): 29 June 2013 (s 2(1) item 16)	Sch 3 (item 343)
Broadcasting Legislation Amendment (Broadcasting Reform) Act 2017	113, 2017	16 Oct 2017	Sch 6 (items 14–16, 38–42): 17 Oct 2017 (s 2(1) items 13, 15)	Sch 6 (items 38–43)
as amended by				
Telecommunications Legislation Amendment Act 2019	6, 2019	1 Mar 2019	Sch 3 (items 2, 3): 2 Mar 2019 (s 2(1) item 1)	—
Telecommunications Legislation Amendment Act 2019	6, 2019	1 Mar 2019	Sch 3 (item 1): 2 Mar 2019 (s 2(1) item 1)	—

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Endnote 4—Amendment history

Provision affected	How affected
Title	rs No 145, 1992
s 3	am No 145, 1992
s 4	rs No 145, 1992
	am No 59, 1997; No 145, 1997
s 4A	ad No 113, 2017
s 5	rs No 145, 1992
s 6	am No 145, 1992; No 109, 1995; No 145, 1997
s 7	rs No 145, 1992; No 109, 1995
	am No 145, 1997; No 34, 2000
s 7A	ad No 109, 1995
	am No 59, 1997; No 145, 1997; No 45, 2005; No 103, 2013; No 113, 2017
s 8	am No 145, 1997
s 9	am No 145, 1997
s 10	rs No 145, 1992
s 10A	ad No 145, 1992
	am No 59, 1997; No 45, 2005
s 10B	ad No 113, 2017
s 10C	ad No 113, 2017
	am No 6, 2019
s 10D	ad No 113, 2017
s 10E	ad No 113, 2017

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