



# **Radiocommunications Taxes Collection Regulations 2023**

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I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 16 March 2023

David Hurley  
Governor-General

By His Excellency's Command

Michelle Rowland  
Minister for Communications

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## Part 1—Preliminary

### 1 Name

This instrument is the *Radiocommunications Taxes Collection Regulations 2023*.

### 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

### 3 Authority

This instrument is made under the *Radiocommunications Taxes Collection Act 1983*.

Note: The *Radiocommunications Act 1992* is incorporated and read as one with the Act: see section 3 of the Act.

### 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

### 5 Definitions

Note: A number of expressions used in this instrument are defined in the Act or the *Radiocommunications Act 1992*, including the following:

- (a) ACMA;
- (b) apparatus licence;
- (c) initial holding date;
- (d) spectrum licence;
- (e) tax;
- (f) transmitter licence.

In this instrument:

**Part 1** Preliminary

**Section 5**

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*Act* means the *Radiocommunications Taxes Collection Act 1983*.

## Part 2—Refund of tax

### 6 Refund of tax on cancellation of licence

#### *Requirement to refund*

- (1) The ACMA must, on behalf of the Commonwealth, refund an amount of tax, worked out in accordance with subsection (2), that has been paid by a person in respect of an apparatus licence or spectrum licence if the licence is cancelled before the end of the period specified in the licence for which the licence is to remain in force (subject to subsections (3) and (4)).

Note: A surrendered apparatus licence or spectrum licence is taken to be cancelled upon the ACMA's acceptance of the surrender: see section 307 of the *Radiocommunications Act 1992*.

#### *Amount to be refunded*

- (2) The amount to be refunded is worked out using the formula:

$$\frac{\text{Days in post-cancellation period}}{\text{Days in reference period}} \times \text{Tax paid}$$

where:

***days in post-cancellation period*** means the number of days in the period:

- (a) beginning on the day the licence was cancelled; and
- (b) ending at the end of the reference period for the payment of tax.

***days in reference period*** means the number of days in the reference period for the payment of tax, disregarding 29 February if that day occurs during the reference period.

***reference period*** for a payment of tax has the meaning given by subsection (5).

***tax paid*** means the amount of tax paid for the most recent imposition of tax in respect of the licence.

#### *Exceptions*

- (3) Subsection (1) does not apply if:
- (a) the licence is a spectrum licence cancelled under section 77 of the *Radiocommunications Act 1992*; or
  - (b) the licence is an apparatus licence cancelled under section 128 of that Act; or
  - (c) the licence is a transmitter licence cancelled under section 128B of that Act, where the international broadcasting licences referred to in section 128A of that Act were each cancelled under section 121FK or 121FL of the *Broadcasting Services Act 1992*.
- (4) Subsection (1) does not apply if the amount that would be refundable is less than \$41.

## Section 6

*Reference period*

- (5) The *reference period* for a payment of tax is worked out in accordance with the following table.

<b>Reference period for payment of tax</b>			
<b>Item</b>	<b>For a payment of tax imposed in respect of ...</b>	<b>the <i>reference period</i> is the period beginning ...</b>	<b>and ending ...</b>
1	an apparatus licence, on the issue of the licence, under: (a) subsection 6(1), (1A) or (2) of the <i>Radiocommunications (Receiver Licence Tax) Act 1983</i> ; or (b) subsection 6(1), (1B) or (2) of the <i>Radiocommunications (Transmitter Licence Tax) Act 1983</i>	on the day on which the licence was issued	on the day on which the licence period for the licence ends (see subsection (6))
2	an apparatus licence, on the issue of the licence, and on each anniversary of the day the licence came into force, under: (a) subsection 6(1C) or (3) of the <i>Radiocommunications (Receiver Licence Tax) Act 1983</i> ; or (b) subsection 6(1D) or (3) of the <i>Radiocommunications (Transmitter Licence Tax) Act 1983</i>	on the later of the following days: (a) the day on which the licence was issued; (b) the most recent anniversary of the day the licence came into force	on the earlier of the following days: (a) the day on which the licence period for the licence ends (see subsection (6)); (b) the day immediately before the next anniversary of the day the licence came into force
3	an apparatus licence, on the holding of the licence, under: (a) subsection 6(5) or (6) of the <i>Radiocommunications (Receiver Licence Tax) Act 1983</i> ; or (b) subsection 6(5) or (6) of the <i>Radiocommunications (Transmitter Licence Tax) Act 1983</i>	on the anniversary of the day the licence came into force that is mentioned in that subsection	on the day on which the licence period for the licence ends (see subsection (6))
4	a spectrum licence, on the initial holding date for the licence, and on each anniversary of the initial holding date for the licence, under section 6 of the <i>Radiocommunications (Spectrum Licence Tax) Act 1997</i>	on the later of the following days: (a) the initial holding date for the licence; (b) the most recent anniversary of the initial holding date for the licence	on the earlier of the following days: (a) the day on which the licence period for the licence ends (see subsection (6)); (b) the day immediately before the next anniversary of the initial holding date for the licence



- (6) For the purposes of the table in subsection (5), the *licence period* for a licence is the period specified in the licence for which the licence is to remain in force.

## Part 3—Exemption from tax

### 7 Exemption from tax

- (1) 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 if:
  - (a) the transmitter or receiver is operated for the purposes of a diplomatic or consular mission of a country (within the meaning of the *Diplomatic and Consular Missions Act 1978*) established in Australia with the consent of the Commonwealth; or
  - (b) the person is a body corporate covered by subsection (2) or (3) of this section and the transmitter or receiver is operated solely or principally for the purposes of the body; or
  - (c) the person is a member or representative of an unincorporated body covered by subsection (2) or (3) of this section and the transmitter or receiver is operated solely or principally for the purposes of the body; or
  - (d) the transmitter or receiver is operated solely or principally for the purpose of assisting a body covered by subsection (2) or (3) of this section.
- (2) This subsection covers a body if:
  - (a) the body is staffed principally by volunteers; and
  - (b) the body is 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 the body is exempt under the provision mentioned in paragraph (b) that applies in relation to the body; and
  - (d) the principal purpose of the body 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.
- (3) This subsection covers a body if the principal purpose of the body 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*.

## **Schedule 1—Repeals**

### ***Radiocommunications Taxes Collection Regulations 1985***

#### **1 The whole of the instrument**

Repeal the instrument.