

Radiocommunications Taxes Collection Regulations (Amendment) 1995 No. 63

EXPLANATORY STATEMENT

STATUTORY RULES 1995 No. 63

Issued by the Authority of the Minister for Communications and the Arts

Radiocommunications Taxes Collection Act 1983

Radiocommunications Taxes Collection Regulations (Amendment)

Section 11 of the *Radiocommunications Taxes Collection Act 1983* (the Act) provides that the Governor-General may make regulations prescribing matters for carrying out or giving effect to the Act.

The *purposes* of the amending Regulations are to:

- remove tax exemptions for certain organisations;
- provide for a new scheme of refunds of unused tax (on the surrender of instruments under the *Radiocommunications Act 1992* (the Radiocommunications Act)) so that where the amount is \$30 or above, a full (pro-rata) refund is given, and for amounts less than \$30, no refund is given;

and

- remove a spent regulation relating to refunds of tax relating to the surrender frequency reservation certificates, which no longer exist.

Section 8 of the Act provides that the regulations may exempt persons included in a class of persons from the payment of tax in respect of instruments, included in a class of instruments, issued under the Radiocommunications Act.

Subregulation 5(1) of the Radiocommunications Taxes Collection Regulations (the Regulations) previously provided for exemption from tax for persons operating transmitters or receivers solely in connection with the direction of operations relating to the preservation of human life, the direction of rural firefighting operations, or the direction of the operations of an ambulance service.

Subregulation 5(2) of the Regulations provides for tax exemption for members of diplomatic or consular missions established in Australia with the consent of the Commonwealth.

The Spectrum Management Agency (the SMA) decided that exemptions from tax would be provided only with respect to diplomatic and consular missions, provided for in subregulation 5(2).

Consequently, the exemption provided by subregulation 5(1) of the Regulations was removed by omitting that subregulation. Tax concessions for these organisations are to be dealt with in determinations of tax proposed to be made by the Spectrum Manager under the *Radiocommunications (Transmitter Licence Tax) Act 1983*. It is considered appropriate that such concessions be contained in the same instrument as the taxes to which those concessions pertain.

Subregulations 4(3) and 4A(3) of the Regulations previously provided for pro rata refunds of unused tax upon the surrender of a licence and the cancellation of an instrument respectively. Where the amount of the unused tax was greater than \$30, a sum of \$10 was to be deducted from the amount to be refunded (paragraphs (a)). Where the amount was not greater than \$30, no refund was payable.

As part of its new apparatus licence scheme, the SMA decided to change the basis on which refunds are to be paid by giving a full refund for any unused tax amounts of \$30 or above, with no refund of amounts under \$30.

The amending Regulations amend the Regulations to reflect this new refunds scheme.

Under section 21 of the now repealed *Radiocommunications Act* 1983 (the 1983 Act), frequency reservation certificates were granted reserving to the holder of a certificate the unallocated frequency specified in the certificate. Tax was payable on the grant of a certificate under the *Radiocommunications (Frequency Reservation Certificate Tax) Act* 1983 (the Certificate Tax Act).

The 1983 Act was repealed by section 13 of the *Radiocommunications (Transitional Provisions and Consequential Amendments) Act* 1992 (the R(TPCA) Act). Section 7 of the R(TPCA) Act kept all certificates in force until the expiry of the term for which they were granted. All certificates have now expired. The Certificate Tax Act was also repealed by section 13 of the R(TPCA) Act.

Regulation 3 of the Radiocommunications (Frequency Reservation Certificate Tax) Regulations provided for the refund of unused tax on the surrender of certificates. This regulation was no longer required and it was therefore repealed.

Details of the Regulations are as follows:

Regulation 1 provides for the Regulations to commence on 3 April 1995.

Regulation 2 provides that the Regulations be amended as set out in the amending Regulations.

Regulation 3 omits regulation 3.

Regulation 4 substitutes a new subregulation 4(3) to provide that, for amounts of unused tax of less than \$30, no refund is payable.

Regulation 5 substitutes a new subregulation 4A(3) to provide that, for amounts of unused tax of less than \$30, no refund is payable.

Regulation 6 omits subregulation 5(1) of the Regulations.