

Radiocommunications Taxes Collection Regulations (Amendment) 1995 No. 130

EXPLANATORY STATEMENT

Statutory Rules 1995 No. 130

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) empowers the Governor-General to make regulations, not inconsistent with the Act, prescribing matters:

- (a) required or permitted by the Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 8 of the Act provides that the regulations may exempt persons included in specified classes of persons from the payment of tax in respect of instruments included in specified classes of instruments. Section 4 of the Act provides that 'instrument' means a licence or a permit. Section 3 of the Act provides that the *Radiocommunications Act 1992* is incorporated and is to be read as one with the Act. 'Licence' is defined in section 5 of that Act to include an apparatus licence. There are two types of apparatus, licence, namely transmitter and receiver licences. Such licences authorise the licensee to operate specified radiocommunications transmitters or receivers, or radiocommunications transmitters or receivers of a specified kind, as the case may be. Paragraph 22(a) of the *Acts Interpretation Act 1901* provides that in any Act, unless the contrary intention appears, expressions used to denote persons generally (including the word 'person' itself) include a body corporate as well as an individual.

The purpose of the amending Regulations is to provide exemptions for certain emergency or safety of life organisations from radiocommunications licence taxes imposed under the Act.

Details of the amending Regulations are as follows:

Regulation 1: Commencement

Regulation 1 provides that the amending Regulations are taken to have commenced on 3 April 1995. The purpose of this regulation is to restore a form of exemption for emergency or safety of life organisations from the date on which the previous form of exemption for these organisations was removed.

Until recently, subregulation 5(1) of the Radiocommunications, Taxes Collection Regulations provided an exemption from the payment of tax in respect of radiocommunications transmitter or receiver licences operated in connection with the direction of operations relating to the preservation of human life, rural fire fighting and ambulance services. This subregulation was, however, omitted by regulation 6 of the Radiocommunications Taxes Collection Regulations (Amendment) (SR 1995 No. 63) which commenced on 3 April 1995.

Regulation 2: Amendment

Regulation 2 provides that the Radiocommunications Taxes Collection Regulations are amended as set out in the amending Regulations.

Regulation 3: Regulation 5 (Exemption from tax)

Regulation 3 of the amending Regulations amends regulation 5 of the Radiocommunications Taxes Collection Regulations by providing for exemptions for certain emergency or safety of life organisations from radiocommunications licence taxes imposed under the Act. The exemptions relate to transmitter and receiver licences issued to individuals or bodies corporate (such as incorporated associations and companies).

A body corporate that:

- (a) is staffed principally by volunteers, and
- (b) the income of which is exempt from income tax by virtue of one of the following provisions of the *Income Tax Assessment Act 1936*:
 - (i) paragraph 23(d) - which relates to the revenue of a municipal corporation or other local governing body or of a public authority constituted under any Act or State Act, or under any law in force in a Territory being part of Australia;
 - (ii) paragraph 23(e) - which relates to the income of a religious, scientific, charitable or public educational institution;
 - (iii) subparagraph 23(g)(v) - which relates to the income of a society, association or club established for community service purposes, not being political purposes or lobbying purposes, which is not carried on for the purposes of profit or gain to its individual members; and
- (c) the principal purpose of which is to provide emergency services or services for the safeguarding of human life, including rural fire fighting, search and rescue and coastguard services;

will be exempt from the payment of tax in respect of an apparatus licence issued to the body in respect of a transmitter or receiver operated solely or principally for the purposes of the body (new subregulations 5(4) and (7)).

A body corporate the principal purpose of which is to provide surf life saving services or remote area ambulance services will be exempt from the payment of tax in respect of an apparatus licence issued to the body in respect of a transmitter or receiver operated solely or principally for the purposes of the body (new subregulations 5(4) and (8)).

A person will be 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 of an unincorporated body that:

- (a) is staffed principally by volunteers; and
- (b) the income of which is exempt from income tax by virtue paragraph 23(d) or 23(e) or subparagraph 23(g)(v) of the *Income Tax Assessment Act 1936*; and
- (c) the principal purpose of which is to provide emergency services or services for the safeguarding of human life, including rural fire fighting, search and rescue

and coastguard services;

if the transmitter or receiver is operated solely or principally for the purposes of that body (new subregulations 5(5) and (7)).

A person will be 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 the principal purpose of which is to provide surf life saving services or remote area ambulance services if the transmitter or receiver is operated solely or principally for the purposes of the body (new subregulations 5(5) and (8)).

A person will be 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 that:

- (a) is staffed principally by volunteers; and
- (b) the income of which is exempt from income tax by virtue paragraph 23(d) or 23(e) or subparagraph 23(g)(v) of the *Income Tax Assessment Act 1936*; and
- (c) the principal purpose of which is to provide emergency services or services for the safeguarding of human life, including rural fire fighting, search and rescue and coastguard services (new subregulations 5(6) and (7)).

A person will be 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 the principal purpose of which is to provide surf life saving services or remote area ambulance services (new subregulations 5(6) and (8)).