



Taxation Administration Regulations 1976

Statutory Rules 1976 No. 129 as amended

made under the

Taxation Administration Act 1953

This compilation was prepared on 27 May 2005
taking into account amendments up to SLI 2005 No. 103

Prepared by the Office of Legislative Drafting and Publishing,
Attorney-General's Department, Canberra

Contents

Part 1 Preliminary

1	Name of Regulations [see Note 1]	5
2	Definitions	5
3	Approval of ADIs	6
3A	Prescribed Royal Commissions (Act s 2, definition of <i>eligible Royal Commission</i>)	6
4	Prescribed law (Act s 2, definition of <i>taxation law</i>)	6
5	Certificates — failure to comply with requirements of taxation laws	7
6	Manner of serving orders (Act s 8G)	7
7	Certificates (Act s 8ZG)	8
8	Election to have cases tried in Supreme Court	9
9	Giving notice	9
10	Address for service — tax clearance certificates	9

Part 2 Expenses and certificates

11	Expenses for certain attendances (Act s 14I and s 353-10 of Schedule 1)	10
12	Certificates of failure to give information	10

Part 2A Service of documents in general

12A	Preferred address for service	12
12B	Change or withdrawal of preferred address for service	12
12C	Requirement to maintain a preferred address for service	13
12D	Substitute preferred address for service	13
12E	Failure to notify change of address	14
12F	Service of documents	14

Part 3 Form and service of certain documents

13	Departure prohibition orders (Act s 14S)	15
14	Service of notification (Act s 14T)	15
15	Service of copies of departure authorisation certificates (Act s 14U)	16

		Page
Part 4	Payments	
	17 Prescribed provisions (Act s 16)	17
	18 Payment of tax-related liabilities	17
	19 When receipts are to be given	18
	20 Information about tax-related liabilities	18
	21 Payment of postage on mail to Commissioner	18
Part 4A	Indirect tax refund scheme	
	21A Definitions for Part 4A	20
	21B Specification of kind of entity	20
	21C Specification of kind of acquisition	21
	21D Conditions and limitations of refunds	21
	21E Period and manner of payment of refunds	22
Part 5	Pay As You Go withholding	
Division 1	Rounding amounts	
	22 Rounding before amounts dealt with	24
	23 Rounding after amounts worked out	24
Division 2	General	
	24 Prescribed tax offsets for withholding schedules (Act s 15-30 of Schedule 1)	24
	25 Prescribed matters for withholding schedules (Act s 15-30 of Schedule 1)	25
	26 Prescribed matters for declarations (Act s 15-50 of Schedule 1)	25
	27 Certain Defence Force members taken to have given Medicare levy variation declaration	27
	28 When declarations cease to have effect	27
	29 Determination that declarations cease to have effect	28
	30 When new declarations to be given	28
	31 Issue of payment summaries	29
	32 How certain documents to be signed	30
	33 Cessation of authorisation to sign certain documents	30
Division 3	Payments in respect of which ABNs or TFNs not quoted and Part VA investment payments	
	34 Part VA investment payments	31

		Page
	35 Part VA investment payments below certain thresholds (Act s 12-140 and 12-145 of Schedule 1)	32
	36 ETPs for which TFNs not quoted	33
	37 Certain payments for which TFNs not quoted	34
	38 Certain payments for which ABNs not quoted	34
Division 4	Dividend, interest, royalty, mining and certain superannuation payments	
	39 Definitions	35
	39A Meaning of <i>double tax country</i>	35
	39B Meaning of <i>tax sharing country</i>	36
	40 Dividend payments	36
	41 Interest payments	37
	42 Royalty payments	37
	43 Mining payments	38
	43A Departing Australia superannuation payments	38
Division 5	Withholding — payment for work or services	
	44 Specified payments (Act s 12-60 (2) of Schedule 1)	39
Division 6	Withholding — payments to foreign residents etc	
	44A Gaming junkets	40
	44B Entertainment or sports activities	40
	44C Construction and related activities	42
	44D Limits on amount withheld under this Division	42
Part 6	Miscellaneous	
	45 Presumption as to signatures	44
Schedule 1	45	
Form 1	Certificate under subsection 8ZG (2)	45
Form 2	Notice of election to have case tried in Supreme Court	45
Form 3	Departure prohibition order	46
Schedule 2	Scale of expenses	47
Notes		48

Part 1 Preliminary

1 Name of Regulations [see Note 1]

These Regulations are the *Taxation Administration Regulations 1976*.

2 Definitions

In these Regulations, unless the contrary intention appears:

Act means the *Taxation Administration Act 1953*.

approved form has the meaning given in subsection 995-1 (1) of the *Income Tax Assessment Act 1997*.

Commissioner includes the Commissioner in the capacity of Registrar of the Australian Business Register.

deposit-taking institution means an institution that is approved under regulation 3.

effective, in relation to an address, means that the person to whom the address relates will receive documents delivered to the address.

foreign resident has the meaning given by subsection 995-1 (1) of the *Income Tax Assessment Act 1997*.

Medicare levy surcharge means the surcharge imposed by the *A New Tax System (Medicare Levy Surcharge — Fringe Benefits) Act 1999*.

preferred address for service has the meaning given by regulation 12A.

prescribed non-resident, for a period in an income year, means a person who:

- (a) is a non-resident at all times in that period; and
- (b) is not, at any time in that year, a person to whom a pension, allowance or benefit in respect of which he or she is liable to be assessed and to pay income tax in Australia is, or was, payable under:
 - (i) the *Veterans' Entitlements Act 1986*; or

Regulation 3

- (ii) subsection 4 (6) of the *Veterans' Entitlements (Transitional Provisions and Consequential Amendments) Act 1986*; or
- (iii) a provision (except Part 2.11, 2.12, 2.14 or 2.15) of the *Social Security Act 1991*.

tax-related liability has the meaning given by section 255-1 of Schedule 1 to the Act.

3 Approval of ADIs

The Commissioner may, by instrument published in the *Gazette*, approve an authorised deposit-taking institution within the meaning of the *Banking Act 1959* as a deposit-taking institution for the purposes of these Regulations.

Note An authorised deposit-taking institution is also known as an ADI.

3A Prescribed Royal Commissions (Act s 2, definition of eligible Royal Commission)

For paragraph (b) of the definition of **eligible Royal Commission** in section 2 of the Act, each of the following Royal Commissions is prescribed:

- (a) the Metropolitan Ambulance Service Royal Commission, created by Letters Patent dated 21 December 1999;
- (b) the Royal Commission relating to the building and construction industry, created by Letters Patent dated 29 August 2001;
- (c) the Royal Commission relating to the conduct of Western Australian police officers, created under section 5 of the *Royal Commissions Act 1968* (WA) by instrument of Commission dated 12 December 2001.

4 Prescribed law (Act s 2, definition of taxation law)

For the purposes of paragraph (b) of the definition of **taxation law** in section 2 of the Act, the *Pay-roll Tax Assessment Act 1941* is prescribed.

Regulation 6

5 Certificates — failure to comply with requirements of taxation laws

- (1) In a prosecution of a person for an offence against section 8C or subsection 8D (1) or (2) of the Act in relation to the refusal or failure of the person to comply with a requirement made under or pursuant to a taxation law, a certificate in writing signed by the Commissioner, a Second Commissioner or a Deputy Commissioner certifying that the person, in the circumstances stated in the certificate, refused or failed, as the case may be:
- (a) to furnish a return or any information to the Commissioner or another person;
 - (b) to lodge an instrument with the Commissioner or another person for assessment;
 - (c) to cause an instrument to be duly stamped;
 - (d) to notify the Commissioner or another person of a matter or thing;
 - (e) to produce a book, paper, record or other document to the Commissioner or another person;
 - (f) to attend before the Commissioner or another person; or
 - (g) when attending before the Commissioner or another person:
 - (i) to answer a question asked of the person;
 - (ii) to produce a book, paper, record or other document; or
 - (iii) to take on oath or make an affirmation;
- is evidence of the facts stated in the certificate.
- (2) In any proceedings, a document purporting to be a certificate given in accordance with this regulation and signed by a person authorized to sign the certificate shall, unless the contrary is proved, be deemed to be such a certificate and to have been duly given.

6 Manner of serving orders (Act s 8G)

For the purposes of subsection 8G (2) of the Act, a copy of an order under subsection 8G (1) of the Act is served in the

Regulation 7

prescribed manner on the person to whom the order is addressed if the copy:

- (a) where the person is a natural person:
 - (i) is delivered to the person personally; or
 - (ii) is left at, or sent by pre-paid post to, the address of the place of residence or business of the person last known to the person causing the copy to be served; or
- (b) where the person is a body corporate — is left at, or sent by pre-paid post to, the head office, a registered office or a principal office of the body corporate.

7 Certificates (Act s 8ZG)

- (1) A certificate issued under subsection 8ZG (2) of the Act in relation to an order of a court for the payment of an amount to the Commissioner must be in accordance with Form 1 in Schedule 1, and must contain the following particulars:
 - (a) the name and location of the court;
 - (b) the date on which the order was made;
 - (c) the provision of the taxation law under which the order was made;
 - (d) the amount to be paid to the Commissioner;
 - (e) the name and address of the person ordered to pay the amount.
- (2) For the purposes of subsection 8ZG (3) of the Act:
 - (a) a certificate issued under subsection 8ZG (2) of the Act shall be registered in a court by the proper officer of the court entering the particulars of the certificate in a book kept by the court for that purpose; and
 - (b) where the order to which a certificate referred to in paragraph (a) relates was made more than 12 months before the day on which the registration of the certificate is sought, the registration of the certificate in a court is subject to the condition that leave to register the certificate has first been obtained from the court.

Regulation 10

8 Election to have cases tried in Supreme Court

For the purpose of subsection 8ZJ (5) of the Act, a person prosecuted for a prescribed taxation offence may elect to have the case tried in the Supreme Court of the State or Territory in which the prosecution was instituted by serving on the person who instituted the prosecution, and filing in the court in which the prosecution was instituted, a notice in accordance with Form 2 in Schedule 1.

9 Giving notice

A notice that is required by the Act or these Regulations to be given to a person by the Commissioner may be given to the person by an officer authorised by the Commissioner for that purpose.

10 Address for service — tax clearance certificates

- (1) A person who applies to the Commissioner under section 14B of the Act for a tax clearance certificate must specify in or with the application a preferred address for service.

Penalty: 5 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

Regulation 11

Part 2 Expenses and certificates**11 Expenses for certain attendances (Act s 14I and s 353-10 of Schedule 1)**

The scale of expenses set out in Schedule 2 is prescribed to be allowed to a person who is required to attend before the Commissioner or an officer authorised by the Commissioner for the purposes of:

- (a) paragraph 14I (1) (a) of the Act; or
- (b) paragraph 353-10 (1) (b) of Schedule 1 to the Act.

12 Certificates of failure to give information

- (1) In any proceedings against a person for failing or neglecting duly to comply with a requirement of the Commissioner under section 14I of the Act, being a requirement that that person give the Commissioner information, a certificate in writing signed by the Commissioner, a Second Commissioner or a Deputy Commissioner certifying that the person failed or neglected to give the Commissioner that information in accordance with the requirement is prima facie evidence of the facts stated in the certificate.
- (2) The Commissioner, a Second Commissioner or a Deputy Commissioner may, by instrument under his hand, authorize a person to sign certificates of a kind that the Commissioner, a Second Commissioner or a Deputy Commissioner as the case may be, is authorized to sign under subregulation (1).
- (3) Where the Commissioner, a Second Commissioner or a Deputy Commissioner has, by instrument in force under subregulation (2), authorized a person to sign certificates under subregulation (1), a reference in this regulation to a certificate under subregulation (1) signed by the Commissioner, a Second Commissioner or a Deputy Commissioner as the case may be, shall be read as including a reference to a certificate of that kind signed by a person authorized by the Commissioner, a

Regulation 12

Second Commissioner or a Deputy Commissioner, as the case may be.

- (4) In any proceedings, a document purporting to be a certificate given in accordance with this regulation and signed by a person authorized to sign the certificate shall, unless the contrary is proved, be deemed to be such a certificate and to have been duly given.

Regulation 12A

**Part 2A Service of documents in
 general****12A Preferred address for service**

- (1) An address in Australia used by or associated with a person is a *preferred address for service* of the person if:
 - (a) it is of one of the following kinds of address:
 - (i) a physical address;
 - (ii) a postal address;
 - (iii) an electronic address; and

Note 1 An address may be both a physical address and a postal address (eg. a street address).

Note 2 The following are examples of an electronic address:

- (a) an e-mail address;
 - (b) a secure website that the person can access to obtain a document.
 - (b) the person has given it to the Commissioner as an address for the service of documents by the Commissioner under the Act or these Regulations; and
 - (c) the designation of the address or other circumstances indicate that the person wishes the address to be used by the Commissioner in preference to other addresses of the person, whether generally or in specific circumstances.
- (2) The designation of an address in a form or correspondence as an 'address for service', a 'preferred address', an 'address for correspondence' or similar term satisfies paragraph (1) (c).

**12B Change or withdrawal of preferred address for
 service**

- (1) A person may change or withdraw a preferred address for service only by giving the Commissioner notice in accordance with this regulation.
- (2) The notice must state whether or not the former address is still effective.

Regulation 12D

- (3) The notice must be given to the Commissioner in one of the following ways:
 - (a) orally, including by telephone;
 - (b) in writing, including electronically;
 - (c) any other way approved by the Commissioner in writing.
- (4) If the person is required to maintain a preferred address for service under the Act or these Regulations, the person may withdraw a preferred address for service only if another effective preferred address for service that is a postal address remains.
- (5) If the person is required to maintain a preferred address for service under the Act or these Regulations, and a preferred address for service becomes ineffective, the person must change or withdraw the ineffective address within 28 days.

12C Requirement to maintain a preferred address for service

If a person is required to give the Commissioner a preferred address for service for a purpose (for example, by regulation 10), the person must subsequently maintain a preferred address for service for the purpose.

12D Substitute preferred address for service

- (1) This regulation applies if:
 - (a) a person has not given the Commissioner a preferred address for service; or
 - (b) the Commissioner is satisfied that none of a person's preferred addresses for service is effective.
- (2) If the Commissioner has a record of another address relating to the person (whether or not a physical address), and it appears to the Commissioner that it is likely that the address is effective, the Commissioner may treat that address as the person's preferred address for service for all purposes under the Act and these Regulations.

Regulation 12E

12E Failure to notify change of address

A person whose preferred address for service is no longer effective, and who has not changed or withdrawn the address under regulation 12B, may not plead the fact that the address was not effective as a defence in any proceedings (whether civil or criminal) instituted against the person under the Act or these Regulations.

12F Service of documents

- (1) The Commissioner may serve a document on a person for the purposes of the Act and these Regulations by:
 - (a) if the person has given a preferred address for service that is a physical address — leaving a copy of the document at that address; or
 - (b) if the person has given a preferred address for service that is a postal address — posting a copy of the document to that address; or
 - (c) if the person has given a preferred address for service that is an electronic address — delivering an electronic copy of the document to that address.
- (2) This regulation does not affect the operation of any other law of the Commonwealth, or any law of a State or Territory, that deals with the service of documents.

Note For an example of another law that deals with the service of documents, see sections 28A and 29 of the *Acts Interpretation Act 1901*.

Part 3 **Form and service of certain documents**

13 **Departure prohibition orders (Act s 14S)**

- (1) For the purposes of subsection 14S (1) of the Act, the prescribed form is Form 3 in Schedule 1.
- (2) For the purposes of paragraph 14S (4) (a) of the Act, a person is informed, as prescribed, of the making of a departure prohibition order if a copy of the order:
 - (a) is delivered to the person personally; or
 - (b) is left at, or sent by pre-paid post to, the address of the place of residence or business of the person last known to the Commissioner.
- (3) For the purposes of subparagraph 14S (4) (b) (ii) of the Act, each of the following persons is prescribed:
 - (a) the Chief Executive Officer of Customs;
 - (b) the Commissioner of Police of the Australian Federal Police;
 - (c) the Secretary to the Department of Foreign Affairs and Trade.

14 **Service of notification (Act s 14T)**

- (1) For the purposes of subsection 14T (4) of the Act, notification of the revocation or variation of a departure prohibition order is served, as prescribed, on a person if a document containing the particulars of the revocation or variation:
 - (a) is delivered to the person personally; or
 - (b) is left at, or sent by pre-paid post to the address of the place of residence or business of the person last known to the Commissioner.
- (2) For the purposes of subsection 14T (5) of the Act, notification of a decision referred to in that subsection is served, as

Regulation 15

prescribed, on a person if a document containing the particulars of the decision:

- (a) is delivered to the person personally; or
- (b) is left at, or sent by pre-paid post to, the address of the place of residence or business of the person last known to the Commissioner.

15 Service of copies of departure authorisation certificates (Act s 14U)

- (1) For the purposes of subsection 14U (3) of the Act, a copy of a departure authorisation certificate is served, as prescribed, on a person if the copy:
 - (a) is delivered to the person personally; or
 - (b) is left at, or sent by pre-paid post to, the address of the place of residence or business of the person last known to the Commissioner.
- (2) For the purposes of subsection 14U (4) of the Act, notification of a decision referred to in that subsection is served, as prescribed, on a person if a document containing the particulars of the decision:
 - (a) is delivered to the person personally; or
 - (b) is left at, or sent by pre-paid post to, the address of the place of residence or business of the person last known to the Commissioner.

Part 4 Payments

17 Prescribed provisions (Act s 16)

For the purposes of sub-subparagraph 16 (2) (a) (i) (B) of the Act, each of the following provisions is prescribed:

- (a) paragraph 99 (a) of the *Australian Capital Territory Taxation (Administration) Act 1969*;
- (b) subsection 59 (4) of the *Bank Account Debits Tax Administration Act 1982*;
- (d) subsection 264 (3) of the *Income Tax Assessment Act 1936*;
- (e) subsection 23 (3) of the *Sales Tax Assessment Act (No. 1) 1930*;
- (ea) subsection 108 (4) of the *Sales Tax Assessment Act 1992*;
- (f) subsection 14I (3) of the *Taxation Administration Act 1953*;
- (g) subsection 15 (4) of the *Tobacco Charges Assessment Act 1955*;
- (h) subsection 34 (4) of the *Wool Tax (Administration) Act 1964*;
- (i) subregulation 168 (4) of the *Income Tax Regulations 1936*.

18 Payment of tax-related liabilities

- (1) A person who pays a tax-related liability must pay the liability in Australian currency.
- (2) The person must pay the tax-related liability:
 - (a) by posting the amount of the liability to an address that is approved by the Commissioner; or
 - (b) by depositing that amount at a branch of the Reserve Bank of Australia or a deposit-taking institution in accordance with arrangements made by the Commissioner with the Bank or institution for payments at its branches; or

Regulation 19

- (c) by delivering the amount of the liability to the High Commissioner for the Commonwealth of Australia in the United Kingdom; or
 - (d) in accordance with other arrangements made by the Commissioner.
- (3) The person must pay the amount of the tax-related liability in a single payment unless the Commissioner agrees that the person may make more than 1 payment.

19 When receipts are to be given

The Commissioner is not required to give a receipt to a person who pays a tax-related liability unless the person asks for the receipt.

20 Information about tax-related liabilities

- (1) Subject to subregulation (2), a person who pays a tax-related liability must, at the time of paying it:
- (a) provide information that identifies the amount and nature of the payment; and
 - (b) if the Commissioner gives the person a form in which to provide the information — provide the information using the form.
- (2) If the person deposits an amount for payment of the tax-related liability at a branch of the Reserve Bank of Australia or a deposit-taking institution, the person must:
- (a) make a record that identifies the amount and nature of the deposit; and
 - (b) if the Commissioner gives the person a form in which to make the record — make the record using that form; and
 - (c) keep the record for a period of 12 months after the day on which the deposit is made.

21 Payment of postage on mail to Commissioner

- (1) The full amount of postage on an item addressed to the Commissioner in relation to a matter must be paid by the sender before the letter is sent.

Regulation 21

- (2) If:
- (a) the Commissioner contributes to the cost of postage of an unstamped, or insufficiently stamped, item; and
 - (b) the Commissioner receives a payment in relation to a tax-related liability;
- the Commissioner may deduct the amount of the contribution from the payment.
- (3) The amount of the payment remaining after deduction of the Commissioner's contribution is to be credited towards payment of the tax-related liability.

Regulation 21A

Part 4A Indirect tax refund scheme**21A Definitions for Part 4A**

In this Division, unless the contrary intention appears:

borne wine tax has the meaning given by the *A New Tax System (Wine Equalisation Tax) Act 1999*.

car has the meaning given by section 995-1 of the *Income Tax Assessment Act 1997*.

goods has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999*.

international agreement means:

- (a) a convention or treaty to which Australia is a party; or
- (b) an agreement between Australia and a foreign country;

and includes, for example, an agreement, arrangement or undertaking between a Minister and an official or authority of a foreign country.

taxable supply has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999*.

tax invoice has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999*.

wine has the meaning given by the *A New Tax System (Wine Equalisation Tax) Act 1999*.

Note Amounts of luxury car tax are included in net amounts under the GST system. This has the effect of incorporating the luxury car tax into the payments and refunds system for the GST.

21B Specification of kind of entity

- (1) For subsection 62C (1) of the Act, an entity of the kind mentioned in subregulation (2) is specified.
- (2) For subregulation (1), an entity must be an entity that is the subject of an international agreement that provides that the Commonwealth is under an obligation to grant indirect tax concessions in relation to the entity.

Regulation 21D

Example

The Australian-American Educational Foundation, which was established under the Agreement between the Government of the Commonwealth of Australia and the Government of the United States of America for the financing of certain educational exchange programmes.

The Agreement was done at Canberra on 28 August 1964, and amended on 12 May 1967, 5 December 1988 and 21 February 1992 by exchange of Diplomatic Notes.

21C Specification of kind of acquisition

- (1) For subsection 62C (1) of the Act, an acquisition, by an entity mentioned in regulation 21B, of the kind mentioned in subregulation (2) is specified.
- (2) The acquisition must be:
 - (a) an acquisition that is permitted by the international agreement relevant to the entity; and
 - (b) an acquisition of:
 - (i) a thing the supply of which is a taxable supply; or
 - (ii) wine on which the entity has borne wine tax.

21D Conditions and limitations of refunds

- (1) For section 62C of the Act, an entity of the kind specified in subregulation 21B (1) is entitled to a refund of an amount of indirect tax paid on an acquisition of the kind specified in subregulation 21C (1) if the entity has agreed in writing to repay the amount of the refund to the Commissioner in any of the following circumstances:
 - (a) if the entity purchased a car, and agreed to retain the car for 3 years after purchasing the car — the entity disposes of the car to an entity (other than an entity of a kind specified by subregulation 21B (1)) before the end of 3 years after the first entity purchased the car;
 - (b) if the entity purchased goods other than a car — the entity disposes of the goods (other than to an entity of a kind specified by subregulation 21B (1)) in Australia or an External Territory before the end of 2 years after the entity purchased the goods;

Regulation 21E

- (c) if the entity acquired a service — the entity assigns the entity's entitlement to the service to another entity (other than an entity of a kind specified by subregulation 21B (1)) in Australia or an External Territory.
- (2) The amount to be repaid is:
 - (a) for an acquisition to which paragraph (1) (a) or (b) applies — the proportion of the amount of indirect tax paid for the acquisition that is equal to the proportion of the period mentioned in the paragraph remaining after the entity disposes of the acquisition; and
 - (b) for an acquisition to which paragraph (1) (c) applies — the amount of indirect tax paid for the acquisition.
- (3) The amount of indirect tax to be refunded to an applicant is limited by the terms of the international agreement to which the entity is subject.
- (4) The entity must use the taxable supply acquired by the entity in accordance with the terms of the international agreement to which the entity is subject.

21E Period and manner of payment of refunds

- (1) An application for a refund:
 - (a) must be signed by the applicant; and
 - (b) must be sent:
 - (i) to the Australian Taxation Office; and
 - (ii) with the tax invoice for the acquisition; and
 - (c) in the case of an acquisition of a car — may be sent any time after the acquisition; and
 - (d) in the case of an acquisition that is not a car — may be:
 - (i) sent with another claim; or
 - (ii) sent at least 3 months after another claim made by the entity.

Note Subparagraph (1) (d) (ii) is intended to limit the number of claims from each entity to 1 in each quarter, to minimise delays in the processing of claims.

Regulation 21E

- (2) For subsection 62C (1) of the Act, the amount is to be paid to a single recipient or account nominated by the entity.

Regulation 22

Part 5 Pay As You Go withholding

Division 1 Rounding amounts

22 Rounding before amounts dealt with

- (1) This regulation applies to the amount of a payment that is to be dealt with under a provision of this Part.
- (2) If the amount is less than \$1, it is not to be dealt with.
- (3) If the amount is more than \$1, the number of cents by which it exceeds a whole dollar is to be disregarded when dealing with the amount.

23 Rounding after amounts worked out

- (1) This regulation applies to an amount that:
 - (a) has been worked out under a provision of this Part; and
 - (b) includes a number of cents that is less than a whole dollar.
- (2) If the amount is less than \$1, it is to be disregarded.
- (3) If the amount is more than \$1, or a multiple of \$1, the number of cents by which it exceeds a whole dollar is to be disregarded.

Division 2 General

24 Prescribed tax offsets for withholding schedules (Act s 15-30 of Schedule 1)

For the purposes of paragraph 15-30 (d) of Schedule 1 to the Act, the following tax offsets are prescribed:

- (a) a zone rebate mentioned in section 79A of the *Income Tax Assessment Act 1936*;
- (b) a concessional rebate mentioned in section 159J or 159L of that Act;

- (c) a rebate mentioned in section 159SA, 159SM, 159SU or 159ZRA of that Act;
- (d) a rebate for low income aged persons mentioned in section 160AAAA of that Act.

**25 Prescribed matters for withholding schedules
(Act s 15-30 of Schedule 1)**

For the purposes of paragraph 15-30 (g) of Schedule 1 to the Act, a deductible amount worked out in accordance with section 27H (assessable income to include annuities and superannuation pensions) of the *Income Tax Assessment Act 1936* is prescribed.

**26 Prescribed matters for declarations (Act s 15-50 of
Schedule 1)**

- (1) For the purposes of paragraph 15-50 (1) (b) of Schedule 1 to the Act, the following matters in relation to an individual are prescribed:
 - (a) whether the individual is entitled to a deductible amount under section 27H of the *Income Tax Assessment Act 1936*;
 - (b) whether the individual is entitled to a zone rebate mentioned in section 79A of that Act;
 - (c) whether the individual is entitled to a concessional rebate mentioned in section 159J or 159L of that Act;
 - (d) whether the individual is entitled to a rebate mentioned in section 159SM or 159SU of that Act;
 - (e) if, in any period, the individual is taken under subsection 251U (1) of that Act to have been a prescribed person for the purposes of Part VIIB of that Act in the period — whether the individual is entitled to full or partial relief from Medicare levy;
 - (f) if paragraph (e) does not apply to the individual — whether the individual is entitled to a variation in the amount of Medicare levy that would otherwise be payable by the individual;

Regulation 26

- (g) whether the individual wishes to have an additional amount withheld because of an expected liability for the Medicare levy or Medicare levy surcharge;
- (h) whether the individual is entitled to the family tax benefit within the meaning of the *A New Tax System (Family Assistance) Act 1999*;
- (i) whether the individual has an accumulated FS debt within the meaning of subsection 19AB (2) of the *Social Security Act 1991* or subsection 3 (1) of the *Student Assistance Act 1973*;
- (j) whether the individual is entitled to a rebate for low income aged persons mentioned in section 160AAAA of the *Income Tax Assessment Act 1936*;
- (k) whether the individual wishes to have an amount withheld, by agreement between the individual and the entity, (in addition to any amount required to be withheld under the Act or these Regulations).

Note An amount withheld because of the agreement mentioned in this paragraph is an amount withheld under Division 12 of Schedule 1 to the Act.

- (2) For the purposes of paragraph 15-50 (3) (b) of Schedule 1 to the Act, the following matters in relation to an individual are prescribed:
 - (a) whether the individual wishes to reduce the amount withheld to correspond with the first-mentioned amount (the tax-free threshold) set out in column 1 of the table in clause 1 of Part I of Schedule 7 to the *Income Tax Rates Act 1986*;
 - (b) whether the individual has an accumulated HEC debt within the meaning of subsection 106H (1) of the *Higher Education Funding Act 1988*;
 - (c) whether the individual is a foreign resident;
 - (d) whether the individual has an accumulated FS debt within the meaning of subsection 19AB (2) of the *Social Security Act 1991* or subsection 3 (1) of the *Student Assistance Act 1973*.

27 Certain Defence Force members taken to have given Medicare levy variation declaration

- (1) This regulation applies to an individual:
 - (a) who, on a particular date, is entitled (because of being a member of the Defence Force) to free medical treatment for any incapacity, disease or disabling condition; and
 - (b) who:
 - (i) has not given, as a member of the Defence Force, a declaration under subsection 15-50 (1) of Schedule 1 to the Act to the effect that the individual is entitled to full relief from the Medicare levy; and
 - (ii) has not previously been taken to have given a declaration of that kind under subregulation (2).
- (2) On that day, the individual is taken to have given, as a member of the Defence Force, a declaration under subsection 15-50 (1) of Schedule 1 to the Act to the effect that the individual is entitled to relief from 50% of the Medicare levy.

28 When declarations cease to have effect

- (1) If an individual who has given a declaration to an entity under subsection 15-50 (1) of Schedule 1 to the Act directs the entity in writing to disregard the declaration, the declaration ceases to have effect.
- (2) If an individual who has given a declaration (the *earlier declaration*) to an entity under subsection 15-50 (1) of Schedule 1 to the Act about a matter, later gives another declaration about the matter to the entity, the earlier declaration ceases to have effect.
- (3) If an individual who has given a declaration to an entity under subsection 15-50 (1) of Schedule 1 to the Act permanently ceases to receive withholding payments covered by Subdivision 12-B, 12-C or 12-D of that Schedule from the entity, the declaration ceases to have effect.
- (4) If an individual has given a declaration to an entity under subsection 15-50 (1) or (3) of Schedule 1 to the Act, the declaration ceases to have effect if a TFN declaration made by

Regulation 29

the individual in relation to the entity ceases to have effect because of subsection 202CA (1B) or (1C) of the *Income Tax Assessment Act 1936*.

29 Determination that declarations cease to have effect

- (1) The Commissioner may determine in a notice published in the *Gazette* that:
 - (a) some or all declarations under subsection 15-50 (1) or (3) of Schedule 1 to the Act cease to have effect at the end of a day stated in the determination; or
 - (b) a statement made in a declaration mentioned in paragraph (a) ceases to have effect at the end of a day stated in the determination.
- (2) If a determination applies to a declaration, or a statement made in a declaration, the declaration or statement ceases to have effect at the end of the day stated for that purpose in the determination.

30 When new declarations to be given

- (1) An individual to whom subregulation (2), (3), (4) or (5) applies must give a new declaration in the approved form to the entity mentioned in that subregulation.
- (2) This subregulation applies to an individual if:
 - (a) the individual gives to an entity a declaration under subsection 15-50 (1) of Schedule 1 to the Act about a matter mentioned in subregulation 26 (1); but
 - (b) the individual's circumstances change in relation to the matter.
- (3) This subregulation applies to an individual who lodges with an entity a claim for the Family Tax Benefit under paragraph 7 (1) (a) of the *A New Tax System (Family Assistance) (Administration) Act 1999*.
- (4) This subregulation applies to an individual if:

Regulation 31

- (a) the individual gives to an entity a declaration under subsection 15-50 (3) of Schedule 1 to the Act about a matter mentioned in subregulation 26 (2); but
 - (b) the individual's circumstances change in relation to the matter.
- (5) This subregulation applies to an individual who:
- (a) gives a TFN declaration to an entity expressing a wish to reduce the amount withheld to correspond with the first-mentioned amount (the tax-free threshold) set out in column 1 of the table in clause 1 of Part I of Schedule 7 to the *Income Tax Rates Act 1986*; and
 - (b) becomes a foreign resident.
- (6) If the individual fails to comply with subregulation (1), he or she is liable to pay a civil penalty of 5 penalty units.

Note 1 See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

Note 2 Division 298 of the Act contains machinery provisions relating to civil penalties.

31 Issue of payment summaries

- (1) If a payment summary that is required by section 16-155, 16-160 or 16-165 of Schedule 1 to the Act to be given by an entity was posted to the recipient and returned to the entity without having been delivered, the entity must send the summary to the Commissioner by the later of:
- (a) the first 31 October after the end of the financial year in which the payments covered by the summary were made; and
 - (b) the end of 7 days after the day on which the summary was returned.
- (2) An entity that fails to comply with subregulation (1) is liable to pay a civil penalty of 5 penalty units.

Note 1 See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

Note 2 Division 298 of the Act contains machinery provisions relating to civil penalties.

Regulation 32

32 How certain documents to be signed

- (1) A document mentioned in a provision of Part 2-5 of Schedule 1 to the Act that is required to be signed by an entity must be signed:
 - (a) if the entity is an individual — by the individual; and
 - (b) if the entity is a trustee — by the trustee; and
 - (c) if the entity is a board of trustees:
 - (i) by the senior active trustee resident in Australia; or
 - (ii) if there is no active trustee resident in Australia, by the agent in Australia of the board of trustees; and
 - (d) if the entity is a company — by the public officer of the company; and
 - (e) if entity is the Commonwealth or a State or Territory, an agency within the meaning of the *Public Service Act 1999*, or a Commonwealth, State or Territory authority — by an officer appointed or authorised for the purpose.
- (2) However, if it is not practicable for an individual, trustee, agent or officer to sign personally each document of a particular kind:
 - (a) he or she may authorise another individual to sign documents of that kind; and
 - (b) the authority must be in the approved form and state:
 - (i) the name of the authorised individual; and
 - (ii) the capacity in which that individual signs a document; and
 - (iii) a specimen signature of the individual.
- (3) An individual, trustee, agent or officer who authorises another individual must, as soon as practicable, give a copy of the authority to the Commissioner.

33 Cessation of authorisation to sign certain documents

- (1) The Commissioner or a Deputy Commissioner may, by written notice given to the individual, trustee, agent or officer who authorised a person under subregulation 32 (2), disapprove of the authorisation.

Regulation 34

- (2) On receipt of a notice by the individual, trustee, agent or officer who authorised a person, the person ceases to be authorised to sign a document mentioned in a provision of Part 2-5 of Schedule 1 to the Act that is required to be signed by an entity.
- (3) If a person who was authorised under subregulation 32 (2) ceases (otherwise than under subregulation (2)) to be authorised, the individual, trustee, agent or officer who authorised the person must, within 14 days after the cessation, notify the Commissioner accordingly in the approved form.
- (4) Application may be made under the *Administrative Appeals Tribunal Act 1975* to the Administrative Appeals Tribunal for review of a decision under subregulation (1).

Note A person who makes a reviewable decision must take such steps as are reasonable in the circumstances to give to any person whose interests are affected by the decision notice, in writing or otherwise, of the making of the decision and of the right of the person to have the decision reviewed: see *Administrative Appeals Tribunal Act 1975*, s 27A.

Division 3 Payments in respect of which ABNs or TFNs not quoted and Part VA investment payments

34 Part VA investment payments

- (1) The amount to be withheld under section 12-140 or 12-145 of Schedule 1 to the Act from a payment of income in respect of a Part VA investment is an amount equal to 48.5% of the amount of the payment.
- (2) Subregulation (3) applies if
 - (a) the payment from which that amount is to be withheld is a dividend that has been franked in accordance with section 160AQF of the *Income Tax Assessment Act 1936*; and
 - (b) the franking percentage is less than 100%.

Regulation 35

- (3) The amount to be withheld from the payment is the amount worked out using the formula:

$$(\text{Amount of payment} - \text{franked amount}) \times 0.485$$

- (4) In this regulation:

franked amount and *franking percentage* have the meanings given by section 160APA of the *Income Tax Assessment Act 1936*.

Part VA investment has the meaning given in subsection 995-1 (1) of the *Income Tax Assessment Act 1997*.

35 Part VA investment payments below certain thresholds (Act s 12-140 and 12-145 of Schedule 1)

- (1) An amount is not required to be withheld from a payment mentioned in regulation 34 if:
- (a) the payment is not a payment in relation to an investment mentioned in item 6 (shares in a public company) in the table in subsection 202D (1) of the *Income Tax Assessment Act 1936*; and
 - (b) the payment is to be made to an investor:
 - (i) who had not turned 16 on the 1 January before the date on which the payment was made; and
 - (ii) about whose age the investment body is aware; and
 - (c) the amount of the payment is less than:
 - (i) in the case of a payment in respect of the whole of a financial year — \$420; and
 - (ii) in any other case — an amount worked out using the formula:

$$\frac{P \times \$420}{365}$$

where:

P is the number of days in the period in the financial year in respect of which the amount is payable.

- (2) If a payment mentioned in regulation 34:
- (a) is not of the kind described in subregulation (1); and

Regulation 36

- (b) is in respect of an investment of a kind mentioned in item 1 or 2 in the table in subsection 202D (1) of the *Income Tax Assessment Act 1936*; and
- (c) is an amount of less than:
 - (i) in the case of a payment in respect of the whole of a financial year — \$120; and
 - (ii) in any other case — the amount worked out using the formula:

$$\frac{P \times \$120}{365}$$

where:

P is the number of days in the period in the financial year in respect of which the amount is payable;

an amount is not required to be withheld from the payment.

36 ETPs for which TFNs not quoted

- (1) In this regulation:

eligible termination payment (or *ETP*) has the meaning given by subsection 27A (1) of the *Income Tax Assessment Act 1936*.

post-June 83 component, in relation to an ETP, means the amount that would be the post-June 83 component of the ETP for the purposes of paragraph (e) of subsection 27AA (1) of the *Income Tax Assessment Act 1936* if:

- (a) paragraph (ca) of that subsection were omitted; and
- (b) the expression ‘– EC’ (wherever occurring) were omitted from paragraph (d) of that subsection.

pre-July 83 component, in relation to an ETP, means the amount that would be the pre-July 83 component of the ETP for the purposes of paragraph 27AA (1) (d) of the *Income Tax Assessment Act 1936* if the expression ‘– EC’ (wherever occurring) were omitted from that paragraph.

retained amount of the post-June 83 component and *retained amount of the pre-July 83 component* have the same meanings as in subsection 27AC (2) of the *Income Tax Assessment Act 1936*.

Regulation 37

- (2) If an individual has not made a TFN declaration that is in effect under Division 3 of Part VA of the *Income Tax Assessment Act 1936* to an entity making an ETP to the individual, the amount to be withheld from the ETP under section 12-85 of Schedule 1 to the Act is:
- (a) if the individual is a prescribed non-resident — the amount worked out by multiplying the number of whole dollars in the sum of the retained amount of the pre-July 83 component, and the retained amount of the post-June 83 component, of the ETP by 0.47; and
 - (b) if the individual is not a prescribed non-resident — the amount worked out by multiplying the number of whole dollars in the sum of the retained amount of the pre-July 83 component, and the retained amount of the post-June 83 component, of the ETP by 0.485.

37 Certain payments for which TFNs not quoted

- (1) This regulation applies to a payment if:
- (a) a provision of Subdivision 12-B (except section 12-55), 12-C or 12-D of Schedule 1 to the Act requires an amount to be withheld from the payment; and
 - (b) the recipient of the payment does not provide the payer with a TFN declaration that has effect under Division 3 of Part VA of the *Income Tax Assessment Act 1936*.
- (2) The amount to be withheld from the payment is:
- (a) if the recipient of the payment is a prescribed non-resident — an amount equal to 47% of the amount of the payment; and
 - (b) if the recipient of the payment is not a prescribed non-resident — an amount equal to 48.5% of the amount of the payment.

38 Certain payments for which ABNs not quoted

- (1) This regulation applies to a payment to which subsection 12-190 (1) of Schedule 1 to the Act applies.
- (2) The amount to be withheld from the payment is an amount equal to 48.5% of the amount of the payment.

Division 4 Dividend, interest, royalty, mining and certain superannuation payments

39 Definitions

In this Division:

dividend includes part of a dividend.

double tax agreement means an agreement within the meaning of the *International Tax Agreements Act 1953*.

double tax country has the meaning given by regulation 39A.

interest means any amount that is, or is taken to consist of, interest for Division 11A of Part III of the *Income Tax Assessment Act 1936*.

international tax sharing treaty has the same meaning as in subsection 136AA (1) of the *Income Tax Assessment Act 1936*.

other party, to a double tax agreement or international tax sharing treaty, means:

- (a) if the agreement or treaty was made between Australia and another country — the other country; and
- (b) if the agreement or treaty was made between the government of Australia and the government of another country — the other country.

tax sharing country has the meaning given by regulation 39B.

39A Meaning of *double tax country*

- (1) If a double tax agreement includes provisions that have the force of law because of the *International Tax Agreements Act 1953*, and relate to a withholding payment:
 - (a) on income derived by a non-resident on or after a particular day; or
 - (b) in respect of dividends derived on or after a particular day; the other party to the agreement is a *double tax country* for this Division on and after that day.

Part 5	Pay As You Go withholding
Division 4	Dividend, interest, royalty, mining and certain superannuation payments

Regulation 39B

- (2) If a double tax agreement, not being an agreement to which subregulation (1) applies, includes a provision that has the force of law because of the *International Tax Agreements Act 1953*, and limits the amount of Australian tax payable in respect of a dividend, the other party to the agreement is a **double tax country** for this Division.
- (3) The Netherlands, as defined in Article 3 of the Netherlands agreement referred to in the *International Tax Agreements Act 1953*, is a **double tax country** for this Division.

39B Meaning of *tax sharing country*

- (1) If an international tax sharing treaty includes provisions that have the force of law because of an Act, and relate to a withholding payment:
 - (a) on income derived by a non-resident on or after a particular day; or
 - (b) in respect of dividends derived on or after a particular day; the other party to the treaty is a **tax sharing country** for this Division on and after that day.
- (2) If an international tax sharing treaty, not being a treaty to which subregulation (1) applies, includes a provision that has the force of law because of an Act, and limits the amount of Australian tax payable in respect of a dividend, the other party to the treaty is a **tax sharing country** for this Division.

40 Dividend payments

- (1) The amount to be withheld from a dividend to which section 12-210 of Schedule 1 to the Act applies is:
 - (a) if an address mentioned in paragraph 12-210 (a), or a place mentioned paragraph 12-210 (b), of Schedule 1 to the Act is in a tax sharing country and the relevant international tax sharing treaty applies to the dividend — an amount calculated at the rate provided for in the treaty; and
 - (b) if paragraph (a) does not apply, but that address or place is in a double tax country — an amount calculated at the rate provided for in the relevant double tax agreement; and

Regulation 42

- (c) if paragraphs (a) and (b) do not apply — an amount equal to 30% of the amount of the dividend.
- (2) The amount to be withheld from a dividend to which section 12-215 of Schedule 1 to the Act applies is:
 - (a) if a foreign resident mentioned in paragraph 12-215 (1) (b) of Schedule 1 to the Act is a resident of a tax sharing country and the relevant international tax sharing treaty applies to the dividend — an amount calculated at the rate provided for in the treaty; and
 - (b) if paragraph (a) does not apply, but that foreign resident is a resident of a double tax country — an amount calculated at the rate provided for in the relevant double tax agreement; and
 - (c) if paragraphs (a) and (b) do not apply — an amount equal to 30% of the amount of the dividend.
- (3) However, paragraphs (1) (b) and (2) (b) do not apply in relation to a dividend that is:
 - (a) paid to a resident of the United States of America; and
 - (b) included in a class of dividends that is exempt from tax under the law of that country.

41 Interest payments

The amount to be withheld under section 12-245, 12-250 or 12-255 of Schedule 1 to the Act from interest is an amount equal to 10% of the amount of the interest.

42 Royalty payments

The amount to be withheld under section 12-280 or 12-285 of Schedule 1 to the Act from a royalty is:

- (a) if the person to whom the royalty is paid, or a foreign resident mentioned in paragraph 12-285 (1) (b) of that Schedule, is a resident of the other party to an international tax sharing treaty that applies to the royalty — the amount calculated at the rate provided for in the treaty; and

Regulation 43

- (b) if paragraph (a) does not apply, but the person to whom the royalty is paid, or a foreign resident mentioned in paragraph 12-285 (1) (b) of Schedule 1 to the Act, is a resident of the other party to a double tax agreement — the amount calculated at the rate provided for in the agreement; and
- (c) if paragraphs (a) and (b) do not apply, but the person to whom the royalty is paid, or a foreign resident mentioned in paragraph 12-285 (1) (b) of that Schedule, is a resident of a country other than Australia — 30% of the amount of the royalty; and
- (d) if the person to whom the royalty is paid is a resident of Australia — 30% of the amount of the royalty.

43 Mining payments

The amount to be withheld under subsection 12-320 (1) of Schedule 1 to the Act from a mining payment is an amount equal to 4% of the amount of the payment.

43A Departing Australia superannuation payments

- (1) For section 15-35 of Schedule 1 to the Act, the amount to be withheld under section 15-35 of Schedule 1 to the Act from a departing Australia superannuation payment is:
 - (a) for so much of the departing Australia superannuation payment as is an undeducted contribution or post-June 1994 invalidity component — nil; and
 - (b) for so much of the departing Australia superannuation payment as is the untaxed element of the post-June 1983 component — 40%; and
 - (c) for the remainder of the departing Australia superannuation payment — 30%.
- (2) A term that is used in this regulation and is defined in section 27A of the *Income Tax Assessment Act 1936* has the same meaning in this regulation as it would have in that section if references to ETPs in that section included references to departing Australia superannuation payments.

Division 5 Withholding — payment for work or services

44 Specified payments (Act s 12-60 (2) of Schedule 1)

- (1) For subsection 12-60 (2) of Schedule 1 to the Act, payments of the following kinds are prescribed:
 - (a) payments for tutorial services provided for the Indigenous Tutorial Assistance Scheme (also known as ITAS) conducted by the Department of Education, Science and Training;
 - (b) payments for translation and interpretation services provided for the Translating and Interpreting Service (also known as TIS) conducted by the Department of Immigration and Multicultural and Indigenous Affairs;
 - (c) payments made on or after 1 April 2002 under a contract to an individual engaged as a performing artist to perform in a promotional activity that is:
 - (i) conducted in the presence of an audience; or
 - (ii) intended to be communicated to an audience by print or electronic media; or
 - (iii) for a film or tape; or
 - (iv) for a television or radio broadcast.

- (2) In this regulation:

performing artist includes a singer, dancer, actor, model or a similar individual who is engaged to use his or her intellectual, artistic, musical, physical or other personal skills, but does not include an individual who is engaged primarily because he or she is a sports person.

promotional activity means an activity in which a person:

- (a) endorses or promotes goods or services; or
- (b) appears or participates in an advertisement.

Regulation 44A

Division 6 Withholding — payments to foreign residents etc

44A Gaming junkets

- (1) For paragraph 12-315 (1) (b) of Schedule 1 to the Act, a payment for operating or promoting a junket is prescribed.
- (2) For subsection 15-10 (2) of Schedule 1 to the Act, the amount to be withheld from a payment mentioned in subregulation (1) is 3% of the total payment.
- (3) In this regulation:

gaming means playing a game of chance or a game that is partly a game of chance and partly a game of skill.

junket means an arrangement for the promotion or organising of gaming in 1 or more casinos, whether or not any of the casinos is required by an agreement to make a payment, by which:

- (a) an individual or a group of people comes to Australia for the purpose of gaming at particular casinos; and
- (b) the entity receives payment, from 1 or more of the casinos, that is:
 - (i) a reward made in relation to arranging for the individual or the people to go to a casino for gaming; or
 - (ii) a commission based on the gaming or losses of the individual or group of people.

44B Entertainment or sports activities

- (1) For paragraph 12-315 (1) (b) of Schedule 1 to the Act, payment to an entity for entertainment or sports activities is prescribed.

Examples of payments

Appearance fees, award for player of the series, bonuses, endorsement fees, expense reimbursements, match payments, non-cash prizes, performance fees, preparation fees, prize money, promotional fees, sponsorship.

Regulation 44B

- (2) For subregulation (1), the activities may include giving a speech or a sports commentary.
- (3) For subsection 15-10 (2) of Schedule 1 to the Act, the amount to be withheld from a payment mentioned in subregulation (1) is:
 - (a) if the entity is a company — the amount worked out by applying to the payment the rates mentioned in section 23 of the *Income Tax Rates Act 1986*; or
 - (b) if the entity is an individual — the amount worked out by applying to the payment the rates mentioned in Part II of Schedule 7 of the *Income Tax Rates Act 1986*.
- (4) In this regulation:
 - entertainment or sports activities*** means the activities of:
 - (a) a performing artist or a sportsperson within the meaning given by section 405-25 of the *Income Tax Assessment Act 1997*; or
 - (b) support staff relating to the activity, including:
 - (i) bodyguard;
 - (ii) choreographer;
 - (iii) coach;
 - (iv) costume designer;
 - (v) director;
 - (vi) director of photography;
 - (vii) doctor;
 - (viii) film editor;
 - (ix) hairdresser;
 - (x) musical director;
 - (xi) personal trainer;
 - (xii) physiotherapist;
 - (xiii) producer;
 - (xiv) production designer;
 - (xv) set designer;
 - (xvi) sports psychologist;
 - (xvii) the provider of any other similar services.

Regulation 44C

44C Construction and related activities

- (1) For paragraph 12-315 (1) (b) of Schedule 1 to the Act, payment under a contract entered into after 30 June 2004 (including payments to subcontractors) for works or related activities is prescribed.
- (2) For subsection 15-10 (2) of Schedule 1 to the Act, the amount to be withheld from a payment mentioned in subregulation (1) is 5% of each payment under a contract.
- (3) In this regulation:

related activities includes activities associated with the construction, installation and upgrading of buildings, plant and fixtures.

Examples

Administration, assembly, de-commissioning plant, design, commissioning and operation of facilities, costing, engineering, erection, fabrication, hook-up, installation, project management, site management, supervision and provision of personnel, supply of plant and equipment, warranty repairs.

works includes the construction, installation and upgrading of buildings, plant and fixtures.

Examples

Dam, electricity links, mine site development, natural gas field development, natural resource infrastructure, oilfield development, pipeline, power generation infrastructure, railway or road, residential building, resort development, retail or commercial development, upgrading airport, upgrading telecommunications equipment, water treatment plant.

44D Limits on amount withheld under this Division

- (1) This regulation applies to an amount that is required by this Division to be withheld from a payment if any amounts are already withheld under Subdivision 12-FB of the Act from the payment.
- (2) The amount is reduced by the amounts already withheld from the payment.

Example

A payer is required to withhold an amount under section 12-315 of Schedule 1 to the Act from a payment made to a foreign resident. However, if the foreign resident has an agent who is an intermediary, the intermediary

Regulation 44D

is required to withhold an amount under section 12-317 of that Schedule from that payment. The amount to be withheld under section 12-317 of that Schedule is reduced by the amount already withheld under section 12-315 of that Schedule.

Regulation 45

Part 6 Miscellaneous**45 Presumption as to signatures**

- (1) Judicial notice must be taken of the names and signatures of the persons who are, or were at any time, the Commissioner, a Second Commissioner, a Deputy Commissioner or a delegate of the Commissioner.
- (2) A certificate, notice or other document bearing the written, printed or stamped name (including a facsimile of the signature) of a person who is, or was at any time, the Commissioner, a Second Commissioner, a Deputy Commissioner or a delegate of the Commissioner in the place of the person's signature is taken to have been duly signed by the person, unless it is proved that the document was issued without authority.

Schedule 1

Form 1 **Certificate under subsection 8ZG (2)** (subregulation 7 (1))

COMMONWEALTH OF AUSTRALIA

Taxation Administration Act 1953

CERTIFICATE UNDER SUBSECTION 8ZG (2)

I, _____, the (*title of officer issuing the certificate*) of the
(*name and location of court*), pursuant to subsection 8ZG (2) of the *Taxation
Administration Act 1953*, hereby certify that on (*date*) the court, acting under (*relevant
provision*) of the (*relevant taxation law*), ordered (*name and address of relevant person*)
to pay \$ _____ to the Commissioner of Taxation.

Dated

(*Signature*)

Form 2 **Notice of election to have case tried in Supreme Court** (regulation 8)

(*Heading to be similar to that of Information or Complaint*)

NOTICE OF ELECTION TO HAVE CASE TRIED IN SUPREME COURT

To the above-named Court and to the *Informant *Complainant

Notice is hereby given that the defendant in the above-named prosecution, pursuant
to subsection 8ZJ (5) of the *Taxation Administration Act 1953*, elects to have the case
tried in the Supreme Court of (*insert name of State or Territory*).

Dated

(*Signature of defendant or
of defendant's solicitor or
counsel*)

* *Omit if inapplicable*

Form 3 Departure prohibition order
(subregulation 13 (1))

COMMONWEALTH OF AUSTRALIA

Taxation Administration Act 1953

DEPARTURE PROHIBITION ORDER

Pursuant to subsection 14S (1) of the *Taxation Administration Act 1953*, I, _____, *the*/*delegate of the*/*a* Second/Commissioner of Taxation, believing on reasonable grounds that it is desirable to do so for the purpose of ensuring that, a person subject to the tax liability referred to in the Schedule, does not depart from Australia for a foreign country without:

- (a) wholly discharging the tax liability; or
- (b) making arrangements satisfactory to *me*/*the* Commissioner for Taxation/*for the tax liability to be wholly discharged,*

hereby prohibit the departure of _____ from Australia for a foreign country.

SCHEDULE

(Details of tax liability)

Dated _____

.....
Delegate of the/*Second/*
Commissioner of Taxation

** Omit if inapplicable*

Schedule 2 Scale of expenses

(regulation 11)

1. Person attending before the Commissioner or an authorised officer to give evidence because of that person's professional, scientific or other special skill or knowledge — in respect of each day on which that person so attends, an amount of not less than the lesser amount specified in the *High Court Rules 1952* in relation to expenses of witnesses possessing such skill or knowledge and not more than the greater amount so specified.
2. Person, other than a person referred to in item 1, attending before the Commissioner or an authorised officer:
 - (a) in the case of a person remunerated by wages, salary or fees — such amount as is provided for in the *High Court Rules 1952* in relation to expenses of witnesses so remunerated;
 - (b) in any other case—such amount as is provided for in the *High Court Rules 1952* in relation to expenses of witnesses generally.
3. Person attending before the Commissioner or an authorised officer to give expert evidence — in addition to any other amount payable to that person under item 1 or 2, a reasonable amount for qualifying to give that evidence.
4. Any person attending before the Commissioner or an authorised officer — such amount as is reasonable:
 - (a) in respect of that person's conveyance to and from the place at which that person so attends; and
 - (b) if that person is required to be absent overnight from that person's usual place of residence — for meals and accommodation.

Table of Instruments**Notes to the *Taxation Administration Regulations 1976*****Note 1**

The *Taxation Administration Regulations 1976* (in force under the *Taxation Administration Act 1953*) as shown in this compilation comprise Statutory Rules 1976 No. 129 amended as indicated in the Tables below.

For all relevant information pertaining to application, saving or transitional provisions *see* Table A.

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 <i>Gazette</i> or FRLI registraion	Date of commencement	Application, saving or transitional provisions
1976 No. 129	24 June 1976	24 June 1976	
1984 No. 407	13 Dec 1984	13 Dec 1984	—
1984 No. 415	13 Dec 1984	15 Dec 1984	—
1989 No. 73	4 May 1989	4 May 1989	—
1992 No. 317	7 Oct 1992	7 Oct 1992	—
1993 No. 194	5 July 1993	1 Jan 1993	—
1994 No. 55	11 Mar 1994	11 Mar 1994	—
1994 No. 198	16 June 1994	Rr. 3.2 and 4: 1 July 1992 Remainder: 16 June 1994	—
1994 No. 340	11 Oct 1994	11 Oct 1994	—
1996 No. 347	24 Dec 1996	24 Dec 1996	—
2000 No. 73	12 May 2000	Rr. 1–3 and Schedule 1: 12 May 2000 Remainder: 1 July 2000	—
2000 No. 109	15 June 2000	15 June 2000	—

Table of Instruments

Year and number	Date of notification in <i>Gazette</i> or FRLI registraion	Date of commencement	Application, saving or transitional provisions
2000 No. 152	28 June 2000	1 July 2000 (see r. 2)	—
2000 No. 184	12 July 2000	1 July 2000 (see r. 2)	—
2001 No. 164	29 June 2001	29 June 2001	—
2001 No. 289	5 Oct 2001	5 Oct 2001	—
2001 No. 321	15 Oct 2001	15 Dec 2001	—
2001 No. 354	21 Dec 2001	21 Dec 2001	—
2002 No. 102	23 May 2002	1 July 2002	—
2002 No. 128	14 June 2002	14 June 2002	—
2003 No. 74	28 Apr 2003	20 May 2002	—
2004 No. 112	3 June 2004	1 July 2004	R. 4
2005 No. 103	26 May 2005 (see F2005L01199)	27 May 2005	—

Table of Amendments**Table of Amendments**

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

Provision affected	How affected
Part 1	
Heading to Part 1	ad. 2000 No. 73
R. 1.....	rs. 2000 No. 73
R. 2.....	am. 1984 No. 407; 1994 No. 198 rs. 2000 No. 73 am. 2000 Nos. 73 and 152; 2001 No. 289
R. 3..... (formerly r. 2AA)	ad. 1994 No. 340 rs. 1996 No. 347; 2000 No. 73
R. 3A	ad. 2000 No. 109 rs. 2002 No. 128
R. 4..... (formerly r. 2A)	ad. 1984 No. 407 rs. 2000 No. 73
R. 5..... (formerly r. 2B)	ad. 1984 No. 407 am. 2000 No. 73
R. 6..... (formerly r. 2C)	ad. 1984 No. 407 am. 2000 No. 73
R. 7..... (formerly r. 2D)	ad. 1984 No. 407 am. 1984 No. 415; 2000 No. 73
R. 8..... (formerly r. 2E)	ad. 1984 No. 407 am. 1984 No. 415 rs. 2000 No. 73
R. 9..... (formerly r. 11)	rs. 2000 No. 73
R. 10..... (formerly r. 13)	am. 1984 No. 407; 2000 No. 73 rs. 2001 No. 289 am. 2001 No. 321
Part 2	
Heading to Part 2	ad. 2000 No. 73
R. 11..... (formerly r. 14)	am. 1984 No. 415 rs. 2000 No. 73
R. 12..... (formerly r. 15)	am. 2000 No. 73
Part 2A	
Part 2A.....	ad. 2001 No. 289
R. 12A	ad. 2001 No. 289
R. 12B	ad. 2001 No. 289
R. 12C	ad. 2001 No. 289
R. 12D	ad. 2001 No. 289
R. 12E	ad. 2001 No. 289

Table of Amendments

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

Provision affected	How affected
R. 12F.....	ad. 2001 No. 289
Part 3	
Heading to Part 3	ad. 2000 No. 73
R. 13..... (formerly r. 16)	ad. 1984 No. 407 am. 1984 No. 415; 1989 No. 73; 2000 No. 73
R. 14..... (formerly r. 17)	ad. 1984 No. 407 am. 2000 No. 73
R. 15..... (formerly r. 18)	ad. 1984 No. 407 am. 2000 No. 73
R. 16..... (formerly r. 18A)	ad. 1992 No. 317 am. 1994 No. 55; 2000 No. 73 rep. 2001 No. 289
Part 4	
Heading to Part 4	ad. 2000 No. 73
R. 17..... (formerly r. 19)	ad. 1984 No. 407 am. 1993 No. 194; 2000 No. 73
R. 18..... (formerly r. 20)	ad. 1994 No. 198 rs. 2000 No. 73
R. 19..... (formerly r. 21)	ad. 1994 No. 198 rs. 2000 No. 73
R. 20..... (formerly r. 22)	ad. 1994 No. 198 am. 2000 No. 73
R. 21..... (formerly r. 23)	ad. 1994 No. 198 am. 2000 No. 73
Part 4A	
Part 4A.....	ad. 2000 No. 184
R. 21A	ad. 2000 No. 184
R. 21B	ad. 2000 No. 184
R. 21C	ad. 2000 No. 184
R. 21D	ad. 2000 No. 184
R. 21E	ad. 2000 No. 184
Part 5	
Division 1	
Div. 1 of Part 5	ad. 2000 No. 73
R. 22.....	ad. 2000 No. 73
R. 23.....	ad. 2000 No. 73
Division 2	
Div. 2 of Part 5	ad. 2000 No. 73
R. 24.....	ad. 2000 No. 73 am. 2001 No. 164
R. 25.....	ad. 2000 No. 73

Table of Amendments

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

Provision affected	How affected
R. 26.....	ad. 2000 No. 73 am. 2000 No. 152; 2001 Nos. 164 and 354
R. 27.....	ad. 2000 No. 73
R. 28.....	ad. 2000 No. 73
R. 29.....	ad. 2000 No. 73
R. 30.....	ad. 2000 No. 73
R. 31.....	ad. 2000 No. 73
R. 32.....	ad. 2000 No. 73
R. 33.....	ad. 2000 No. 73
Division 3	
Div. 3 of Part 5	ad. 2000 No. 73
R. 34.....	ad. 2000 No. 73
R. 35.....	ad. 2000 No. 73
R. 36.....	ad. 2000 No. 73 am. 2000 No. 152
R. 37.....	ad. 2000 No. 73 am. 2000 No. 152
R. 38.....	ad. 2000 No. 73
Division 4	
Heading to Div. 4 of Part 5..	rs. 2002 No. 102
Div. 4 of Part 5	ad. 2000 No. 73
R. 39.....	ad. 2000 No. 73 rs. 2003 No. 74
R. 39A	ad. 2003 No. 74
R. 39B	ad. 2003 No. 74
R. 40.....	ad. 2000 No. 73 rs. 2003 No. 74
R. 41.....	ad. 2000 No. 73
R. 42.....	ad. 2000 No. 73 rs. 2003 No. 74
R. 43.....	ad. 2000 No. 73
R. 43A	ad. 2002 No. 102
Division 5	
Heading to Div. 5 of Part 5..	rs. 2004 No. 112
Div. 5 of Part 5	ad. 2000 No. 152
R. 44.....	ad. 2000 No. 152 rs. 2001 No. 354 am. 2005 No. 103

Table of Amendments

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

Provision affected	How affected
Division 6	
Div. 6 of Part 5	ad. 2004 No. 112
R. 44A	ad. 2004 No. 112
R. 44B	ad. 2004 No. 112
R. 44C	ad. 2004 No. 112
R. 44D	ad. 2004 No. 112
Part 6	
Part 6.....	ad. 2001 No. 289
R. 45.....	ad. 2001 No. 289
Heading to Schedule	ad. 1984 No. 407
	rep. 1984 No. 415
Schedule 1	
Heading to Schedule 1	ad. 1984 No. 415
Schedule 1	am. 2000 No. 73
Form 1	ad. 1984 No. 407
	am. 2000 No. 73
Form 2	ad. 1984 No. 407
	am. 2000 No. 73
Form 3	ad. 1984 No. 407
	am. 2000 No. 73
Schedule 2	
Heading to Schedule 2	rs. 2000 No. 73
Schedule 2.....	ad. 1984 No. 415
	am. 2000 No. 73

Repeal Table

Repeal Table

Certain provisions of the *Taxation Administration Regulations 1976*, as amended, were repealed prior to renumbering by the *Taxation Administration Amendment Regulations 2000 (No. 1)* (2000 No. 73) or by that Regulation. The amendment history of the repealed provisions appears in the Table below.

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

Provision affected	How affected
R. 3.....	rep. 2000 No. 73
R. 4.....	rep. 2000 No. 73
R. 5.....	rep. 2000 No. 73
R. 6.....	rep. 2000 No. 73
R. 7.....	rep. 2000 No. 73
R. 8.....	am. 1984 No. 407 rep. 2000 No. 73
R. 9.....	rep. 2000 No. 73
R. 10.....	rep. 2000 No. 73
R. 12.....	rs. 1984 No. 415 rep. 2000 No. 73
Heading to Schedule	rep. 1984 No. 415

Table A Application, saving or transitional provisions

Statutory Rules 2004 No. 112

4 Application

The amendments made by Schedule 1 apply to payments made or received on or after 1 July 2004.