



**Australian Government**

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**Department of Infrastructure, Transport,  
Regional Development, Communications and the Arts**

# Radiocommunications Taxes Collection Regulations 1985—Consultation Paper

September 2022



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# Introduction

## Background

The Radiocommunications Taxes Collection Regulations 1985 (the RTC Regulations) broadly provide for refunds, exemptions, remissions and manner of payment of taxes collected under the *Radiocommunications Taxes Collection Act 1983* (RTC Act). The RTC Act provides for the collection of the taxes imposed on various licences under the *Radiocommunications Act 1992* (Radcomms Act), including the following:

- transmitter licence tax imposed in relation to transmitter licences (which are one of two kinds of apparatus licences) by the *Radiocommunications (Transmitter Licence Tax) Act 1983* (TLT Act);
- receiver licence tax imposed in relation to receiver licences (which are one of two kinds of apparatus licences) by the *Radiocommunications (Receiver Licence Tax) Act 1983* (RLT Act); and
- spectrum licence tax imposed in relation to spectrum licences by the *Radiocommunications (Spectrum Licence Tax) Act 1997* (SLT Act).

The RTC Regulations provide for certain matters related to the payment and collection of taxes imposed on holders of apparatus licences and spectrum licences. These matters include arrangements for refunds and remissions of tax in certain circumstances, and a list of prescribed bodies that are exempt from the applicable tax.

## Purpose and scope of the amendments

The RTC Regulations are scheduled to sunset on 1 April 2023. The department's intention is to retain the RTC Regulations and update its provisions to reflect the current licensing arrangements and taxation calculations.

Due to the passage of time, areas of the RTC Regulations are outdated or misaligned with newer licensing arrangements. The proposed approach will reconcile the RTC Regulations with the broader legislative framework governing spectrum management.

## The consultation process

The proposed amendments will provide the refunds and rebates provisions in the RTC Regulations with the flexibility to function with the various licences and licence options that have been introduced since the Regulations were created.

The department would welcome written submissions on this consultation paper by 5:00PM Australian Eastern Standard Time, Monday 10 October 2022 and is available to meet with stakeholders to discuss the amendments. Instructions on how to make a submission are provided at the end of this paper. If you have any questions on the consultation paper or process, or would like to arrange a meeting with the department, please send an email to [spectrumreform@communications.gov.au](mailto:spectrumreform@communications.gov.au) or contact:

Shayn Sparreboom  
A/g Assistant Secretary  
Spectrum Branch  
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# Overview of the proposed changes to the RTC Regulations

## Separate surrender and cancellation provisions

Regulations 4 and 4A refer to refunds on surrender and for eligible cancellations respectively. It is no longer necessary to draw a distinction between these two forms of cessation. Separate provisions arose because there previously existed various instruments that imposed taxes (for example, licences, permits and certificates). Today, tax is imposed only in relation to licences. Furthermore, under section 307 of the Radcomms Act, a licence is taken to be cancelled on surrender. Refunds will remain unavailable in circumstances where the Australian Communications and Media Authority (ACMA) cancels a licence for breach of a licence condition or the Radcomms Act.

As a result of these considerations, we propose to replace regulations 4 and 4A with a single provision that provides for refunds of unused tax upon the surrender or cancellation of a licence, provided that the ineligibility criteria specified in the regulations does not apply in the specific circumstances.

## Clarifying ineligibility circumstances

At present, the reasons for refund ineligibility under regulation 4A do not cover all the scenarios in which a licence could be cancelled and a refund would not be available. It is proposed that paragraph 4A(b) be amended to clarify that refunds will not be available in the following circumstances:

- i. the cancellation, under section 121FK or 121FL of the *Broadcasting Services Act 1992*, of any of the international broadcasting licences referred to in paragraph 128A(b) of the Radcomms Act; or
- ii. the operation of a radiocommunications device under the licence, or purportedly under the licence, in contravention of, or in the course of contravening, any other law (whether written or unwritten) of the Commonwealth, a State or a Territory.

## Annual tax payments

The department proposes amending the refund formula to account for apparatus licences where tax is paid annually. When the RTC Regulations were established, apparatus licence taxes were always imposed on the issue of the licence for the entire period the licence was in force. In 1995, the TLT Act and the RLT Act were amended to enable licensees to elect to have licence tax imposed annually. The RTC Regulations have not been amended to account for this development, which can result in inconsistent refund amounts.

It is proposed that the formula to calculate the value of the refund be:

$$\text{Days in post-cessation period} / \text{Days in period transmitter licence was paid} \times \text{amount of tax paid}$$

Where:

*Post-cessation period* means the number of days in the period:

- a) beginning at the date the licence ceased and
- b) ending at the earliest of either:
  - a. the date at the end of the period of the transmitter licence; or
  - b. the date when the next payment of transmitter licence tax is due.

*Period of transmitter licence* means the number of days in the period for which transmitter licence tax was paid, whether it is the entire period, annual or otherwise.

Worked Example 1 – *licence paid annually*: Company A held an annual licence which was cancelled at the licensee’s request on 1 June 2022. The licence period commenced on 1 February 2022 and was due to expire on 31 January 2023.

The total value of the licence was \$963,243.00 per annum.

The days in post-cessation period are calculated from 1 June 2022 to 31 January 2023, the date when the licence would expire. This period between the cancellation and the expiry is 245 days (8 months). The period of transmitter licence in this case was 365 days (12 months).

Therefore, Company A would receive a refund of \$649,199.39 based on the calculation:

$245 \text{ (days in post-cessation period)} / 365 \text{ (days in period licence was paid)} \times 963,243 \text{ (amount of tax paid)}$

Worked example 2 - *licence paid for entire period*: Company B held a licence which was cancelled at the licensee’s request on 31 October 2022. The licence commenced on 1 November 2021 and was due to expire on 31 October 2025.

The total value of the licence was \$4,000. Company B paid for the full duration of the licence upfront.

The days in the post-cessation period are calculated from 1 November 2022 to 31 October 2025, the date when the licence would expire. This period between the cancellation and expiry is 1,095 days (3 years). The period of transmitter licence in this case was 1,460 days (4 years).

Therefore, company B would receive a refund of \$3,000.00 based on the calculation:

$1,095 \text{ (days in post-cessation period)} / 1,460 \text{ (days in period transmitter licence was paid)} \times 4,000 \text{ (amount of tax paid)}$

The refund formula proposed in this consultation paper is based on a linear function. That is, the value of the licence will decline by a consistent amount over time. With the introduction of longer licences, now up to a period of 20 years, a linear function may be less appropriate as the early years of the licence may be significantly more valuable than the final years.

An alternative refund formula estimating the value of longer duration licences is not currently proposed, noting 20-year licences were only recently created. However, future arrangements for particular allocations may be needed, as the ACMA considers allocations relating to long-term, highly valuable apparatus licences.

## Spectrum manager

The Spectrum Manager was the person empowered to issue licences and similar instruments. Today, the functions of the former Spectrum Management Agency are performed by the ACMA. Transitional provisions have addressed the changes in administrative arrangements for spectrum management since the time the RTC Regulations were made, particularly through the *Telecommunications (Transitional Provisions and Consequential Amendments) Act 1997* and the *Australian Communications and Media Authority (Consequential and Transitional Provisions) Act 2005*.

Updating the term ‘Spectrum Manager’ will not change how the RTC Regulations function. The department proposes references to Spectrum Manager be replaced with references to the ACMA for clarification purposes which brings the terminology into line with the legislative framework.

## Refunds do not apply to spectrum licence tax

The Regulations were established in 1985 before the introduction of the *Radiocommunications (Spectrum Licence Tax) Act 1997*, which provides for the imposition of a tax charged for spectrum licences on a specific holding date annually. The refund provisions in the Regulations should be updated to account for spectrum licences and apply to this taxable event.

## Outdated provisions

The RTC Regulations contain several provisions that no longer serve a practical purpose. It is proposed regulations 4B and 6-9 be omitted from the remade instrument. The relevant types of apparatus licences covered by these provisions were issued between 1991 and 1997, had a maximum period of 5 years and therefore no longer exist. Furthermore, regulation 7 refers to a set of regulations under the TLT Act that are no longer in effect.

As a consequence of these changes, regulation 2 will no longer need to include definitions of the terms public mobile telecommunications service, Class B and transmitter licence tax.

Paragraph 5(7)(b) was amended with a note in 2007 by the Radiocommunications Taxes Collection Amendment Regulations 2007 (No. 1) to retrospectively take effect on 1 July 1997. The period that the relevant apparatus licences would apply expired in 2012. As the note related to paragraph 5(7)(b) is outdated, it is proposed it be omitted.

## Questions for consideration

The department seeks your views on all aspects of the proposed amendments, including whether the proposed amendments are fit for purpose and whether they raise any operational or administrative burden that could be remedied prior to implementation. In addition, the department seeks your views on the following specific matters covered by the amendments:

1. Is the proposed formula to calculate refunds for licences paid at different intervals the best method to calculate refunds, or would some other method be more accurate, with regard to matters including the various types of licences and licence lengths?
2. The RTC Act provides for the collection of the taxes imposed on various licences and the RTC Regulations provide for refunds, exemptions, remissions and manner of payment of taxes thereunder. Are there any additional amendments the department should consider as part of the proposed amendments to the RTC Regulations?



## Next steps and conclusion

As noted above, the department would welcome written submissions on the consultation paper by 5:00PM Australian Eastern Standard Time, Monday 10 October 2022 and is available to meet with stakeholders to discuss the amendments. To provide a written submission, please email [spectrumreform@communications.gov.au](mailto:spectrumreform@communications.gov.au) or post the submission to:

Director, Spectrum Policy Team  
Department of Infrastructure, Transport, Regional Development, Communications and the Arts  
GPO Box 594  
Canberra ACT 2601

When making a submission, please include:

- Contact name
- Organisation name, if applicable
- Contact details, including telephone number, postal and email addresses
- Confirmation whether or not your submission can be made public—published—or kept confidential.

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If you have any questions on the consultation paper or the consultation process, or would like to arrange a meeting with the department, please send an email to [spectrumreform@communications.gov.au](mailto:spectrumreform@communications.gov.au) or contact:

Shayn Sparreboom  
A/g Assistant Secretary  
Spectrum Branch  
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After considering feedback received through this consultation, the Department will provide further advice to government on the development of regulations to replace the RTC Regulations. As part of finalising the amendments, the department will contact stakeholders where any additional information or clarification is needed regarding a submission.