



# **A New Tax System (Australian Business Number) Act 1999**

**No. 84, 1999**



# **A New Tax System (Australian Business Number) Act 1999**

**No. 84, 1999**

**An Act to implement A New Tax System by  
establishing a Register of Australian Business and  
providing for the issue of Australian Business  
Numbers, and for related purposes**

---

# Contents

<b>Part 1—Preliminary</b>	2
<b>Division 1—Formalities</b>	2
1 Short title.....	2
2 Commencement.....	2
<b>Division 2—Objects</b>	3
3 Objects.....	3
<b>Division 3—Application of this Act</b>	4
4 Crown bound by this Act.....	4
5 Application to government entities.....	4
6 Application of <i>Criminal Code</i> .....	4
7 Application to the external Territories.....	4
<b>Part 2—Registering for ABN purposes</b>	5
<b>Division 4—Registration</b>	5
8 Are you entitled to an ABN? .....	5
9 Applying for registration .....	5
10 Registrar must register you if conditions met .....	6
11 Steps taken by Registrar to register you .....	6
12 If you are registered, notices may be sent to you at your registered address for service.....	7
13 Refusal to register.....	7
<b>Division 5—Your obligations if you are registered</b>	8
14 You must notify Registrar of changes to matters set out in the Register.....	8
15 Your obligation to give Registrar information if requested .....	8
16 Application of sections 14 and 15 to partnerships and unincorporated associations and bodies.....	9
<b>Division 6—Variation and cancellation of registration</b>	11
17 Registrar may change your ABN.....	11
18 When your registration can be cancelled .....	11
19 Reinstating your registration .....	12
<b>Division 7—Signatures</b>	13
20 Applications and notices must be signed .....	13
<b>Division 8—Review of decisions about registration</b>	14
21 Review of decisions.....	14

---

---

22	Statement of rights to seek review .....	14
<b>Division 9—Offences in relation to use of ABNs</b>		16
23	Misuse of ABN.....	16
<b>Part 3—Administration</b>		17
<b>Division 10—The Australian Business Register</b>		17
24	The Australian Business Register .....	17
25	Entries in the Australian Business Register .....	17
26	Access to the Australian Business Register .....	17
27	Evidentiary value of the Australian Business Register .....	18
<b>Division 11—Other administrative matters</b>		19
28	The Registrar .....	19
29	Annual report on operation of this Act .....	19
30	Protection of confidentiality of information .....	20
31	Regulations.....	21
<b>Part 4—Rules for interpreting this Act</b>		23
<b>Division 12—Identifying defined terms</b>		23
32	When defined terms are identified.....	23
33	When terms are <i>not</i> identified.....	23
34	Identifying the defined term in a definition .....	23
<b>Division 13—What forms part of this Act</b>		24
35	What forms part of this Act .....	24
36	What does not form part of this Act .....	24
<b>Division 14—Meaning of some important concepts</b>		25
37	Entity .....	25
38	Enterprise .....	26
39	Carrying on an enterprise in Australia.....	27
40	Electronic lodgment of documents .....	27
<b>Division 15—The Dictionary</b>		28
41	Dictionary .....	28

---



# **A New Tax System (Australian Business Number) Act 1999**

**No. 84, 1999**

---

---

**An Act to implement A New Tax System by  
establishing a Register of Australian Business and  
providing for the issue of Australian Business  
Numbers, and for related purposes**

*[Assented to 8 July 1999]*

The Parliament of Australia enacts:

**Part 1** Preliminary  
**Division 1** Formalities

Section 1

---

**Part 1—Preliminary**

**Division 1—Formalities**

**1 Short title**

This Act may be cited as the *A New Tax System (Australian Business Number) Act 1999*.

**2 Commencement**

This Act commences on the day on which it receives the Royal Assent.

## **Division 2—Objects**

### **3 Objects**

- (1) The main object of this Act is to make it easier for businesses to conduct their dealings with the Australian Government. This is done by establishing a system for registering businesses and issuing them with unique identifying numbers so that they can identify themselves reliably:
  - (a) in all their dealings with the Australian Government; and
  - (b) for all other Commonwealth purposes.
- (2) Without limiting paragraph (1)(b), the main object of this Act includes allowing businesses to identify themselves reliably for the purposes of \*taxation laws.
- (3) The objects of this Act also include reducing the number of government registration and reporting requirements by making the system available to State, Territory and local government regulatory bodies.

Note: Section 26 facilitates this object by allowing anybody to access the information on the Australian Business Register.

### **Division 3—Application of this Act**

#### **4 Crown bound by this Act**

This Act binds the Crown in each of its capacities, but does not make the Crown liable to be prosecuted for an offence.

#### **5 Application to government entities**

This Act applies to a \*government entity as if it were an \*entity \*carrying on an \*enterprise in \*Australia.

#### **6 Application of *Criminal Code***

The *Criminal Code* applies to all offences against this Act.

#### **7 Application to the external Territories**

This Act extends to every external Territory.



## **Part 2—Registering for ABN purposes**

### **Division 4—Registration**

#### **8 Are you entitled to an ABN?**

- (1) \*You are entitled to have an Australian Business Number (\*ABN) if you are \*carrying on an \*enterprise in \*Australia.

Note: Section 5 deals with the application of this Act to government entities.

- (2) A \*Corporations Law company is entitled to have an Australian Business Number (\*ABN).

#### **9 Applying for registration**

- (1) To get an \*ABN, \*you must apply to be registered in the \*Australian Business Register.

Note 1: You may apply yourself or someone may apply on your behalf.

Note 2: If you are registered, you will be allocated an ABN and your ABN will be entered in the Register (see subsection 11(1)).

- (2) \*Your application:
- (a) must be in a form approved by the \*Registrar; and
  - (b) must be lodged at, or posted to, an office or facility designated by the Registrar as a receiving centre for applications of that kind; and
  - (c) may be \*lodged electronically.

Note: Your application must be signed (see section 20).

- (3) Without limiting paragraph (2)(a), the form approved under that paragraph:
- (a) may require you to set out in your application:
    - (i) the name and address of, and other information about, an \*associate; or

Section 10

---

- (ii) any identifying number (other than a \*TFN) that has been issued to you or to an associate; and
- (b) may request, but not compel, you to provide your TFN or that of an associate.

**10 Registrar must register you if conditions met**

The \*Registrar must register \*you in the \*Australian Business Register if:

- (a) you have applied under section 9; and
- (b) the Registrar is satisfied that you:
  - (i) are entitled to have an \*ABN; or
  - (ii) are likely to be entitled to have an ABN by the date specified in your application; and
- (c) the Registrar is satisfied that your identity has been established; and
- (d) you are not already registered in the Register.

**11 Steps taken by Registrar to register you**

- (1) The \*Registrar registers \*you by:
  - (a) allocating you an \*ABN; and
  - (b) entering in the \*Australian Business Register:
    - (i) your name; and
    - (ii) your ABN; and
    - (iii) the date of effect of the registration.
- (2) The date specified as the date of effect of \*your registration may be any date (including a date before your application for registration was made).
- (3) The \*Registrar must give \*you a written notice of:
  - (a) the fact that you have been registered; and
  - (b) your \*ABN; and
  - (c) the date of effect of your registration; and

- (d) the other details entered in relation to you in the \*Australian Business Register (see section 25).

Note: Section 12 deals with giving notice to a registered entity.

## **12 If you are registered, notices may be sent to you at your registered address for service**

- (1) If \*you are registered in the \*Australian Business Register, a notice under this Act, or the regulations, may be given to you by leaving it at, or sending it by pre-paid post to, the address shown in the Register as your address for service.
- (2) Subsection (1):
- (a) does not affect the operation of any other law of the Commonwealth, or any law of a State or Territory, that authorises the service of a document in some other way; and
  - (b) does not affect the power of a court to authorise service of a document in some other way.

## **13 Refusal to register**

- (1) If the \*Registrar refuses \*your application for registration, the Registrar must give you written notice of:
- (a) the refusal; and
  - (b) the reasons for the refusal.

Note: Section 22 requires the notice to be accompanied by a statement of your right to seek AAT review.

- (2) If the \*Registrar has not decided \*your application for registration within 28 days after your application is made, you may, at any time, give the Registrar written notice that you wish to treat your application as having been refused.
- (3) For the purposes of section 21, if \*you give notice under subsection (2), the \*Registrar is taken to have refused your application for registration on the day on which the notice is given.

## Division 5—Your obligations if you are registered

### 14 You must notify Registrar of changes to matters set out in the Register

- (1) If:
- (a) \*you give information to the \*Registrar; and
  - (b) the information is recorded in relation to you in the \*Australian Business Register under section 25; and
  - (c) circumstances change so that the information you gave the Registrar is no longer correct;
- you must notify the Registrar of the change within 28 days after you become aware of the change.

Note 1: The information may have been given to the Registrar as part of applying for registration or it may have been given in a previous notice under this subsection or section 15.

Note 2: This Act is a taxation law for the purposes of the *Taxation Administration Act 1953*. If you fail to comply with this subsection, you commit an offence against section 8C of that Act.

- (2) The notice:
- (a) must be lodged with the \*Registrar; and
  - (b) may be \*lodged electronically.

Note: The notice must be signed (see section 20).

### 15 Your obligation to give Registrar information if requested

- (1) If \*you are registered in the \*Australian Business Register, the \*Registrar may request you to give the Registrar information that is relevant to:
- (a) your entitlement to be registered; or
  - (b) confirming your identity; or
  - (c) the details entered in relation to you in the Register.
- You must comply with the request.

---

Section 16

Note: This Act is a taxation law for the purposes of the *Taxation Administration Act 1953*. If you fail to comply with this subsection, you commit an offence against section 8C of that Act.

- (2) The request:
- (a) is to be made by notice in writing to \*you; and
  - (b) may ask you to give the information in writing; and
  - (c) must specify:
    - (i) the information you are to give; and
    - (ii) the period within which you are to give the information.

The period specified under subparagraph (c)(ii) must end at least 14 days after the notice is given.

Note: Section 12 deals with giving notice to a registered entity.

- (3) If the request asks \*you to give the information in writing, the information:
- (a) must be lodged with the \*Registrar; and
  - (b) may be \*lodged electronically.

Note: The information must be signed (see section 20).

## **16 Application of sections 14 and 15 to partnerships and unincorporated associations and bodies**

### *Application to partnerships*

- (1) If, but for this subsection, section 14 or 15 would impose an obligation on a \*partnership, the obligation is imposed on each partner, but may be discharged by any of the partners.

### *Application to unincorporated association or body*

- (2) If, but for this subsection, section 14 or 15 would impose an obligation on an unincorporated association or body, the obligation is imposed on each member of the committee of management of the association or body, but may be discharged by any of the members of the committee.

**Part 2** Registering for ABN purposes

**Division 5** Your obligations if you are registered

**Section 16**

---

*Defences for partners and members of committee of management*

- (3) In a prosecution of a \*person for an offence against section 8C of the *Taxation Administration Act 1953* because of subsection (1) or (2), it is a defence if the person proves that the person:
- (a) did not aid, abet, counsel or procure the act or omission because of which the offence is taken to have been committed; and
  - (b) was not in any way, by act or omission, directly or indirectly, knowingly concerned in, or party to, the act or omission because of which the offence is taken to have been committed.

## **Division 6—Variation and cancellation of registration**

### **17 Registrar may change your ABN**

- (1) The \*Registrar may, at any time, change \*your \*ABN by:
  - (a) making an appropriate change to the \*Australian Business Register (including the date from which the new ABN has effect); and
  - (b) giving you written notice of the new ABN.

Note: Section 12 deals with giving notice to a registered entity.

- (2) The notice must state the date from which the new \*ABN has effect.
- (3) The change to the \*ABN takes effect on the date stated in the \*Australian Business Register.

### **18 When your registration can be cancelled**

#### *On Registrar's initiative*

- (1) The \*Registrar may cancel \*your registration in the \*Australian Business Register if satisfied that:
  - (a) you are registered under an identity that is not your true identity; or
  - (b) at the time you were registered, you were not entitled to have an \*ABN; or
  - (c) you are no longer entitled to have an ABN.

Note: If your registration is cancelled, you cease to have an ABN (see the definition of **ABN** in section 41).

- (2) The \*Registrar must give \*you written notice of the cancellation. The notice must state:
  - (a) the reasons for the cancellation; and
  - (b) the date of effect of the cancellation.

**Part 2** Registering for ABN purposes

**Division 6** Variation and cancellation of registration

**Section 19**

---

Note 1: Section 22 requires the notice to be accompanied by a statement of your right to seek AAT review.

Note 2: Section 12 deals with giving notice to a registered entity.

- (3) The date of effect of the cancellation may be any of the following:
- (a) the date on which \*you are given notice under subsection (2);
  - (b) a specified date in the future;
  - (c) a date before the date on which the notice is given.

*At your request*

- (4) The \*Registrar may cancel \*your registration if you apply to the Registrar for cancellation of the registration in a form approved by the Registrar.

- (5) The \*Registrar must give \*you written notice of the cancellation. The notice must state the date of effect of the cancellation.

Note: Section 12 deals with giving notice to a registered entity.

- (6) The date of effect of the cancellation may be any of the following:
- (a) the date on which \*you are given notice under subsection (5);
  - (b) a specified date in the future;
  - (c) a date before the date on which the notice is given.

**19 Reinstating your registration**

- (1) The \*Registrar must reinstate \*your registration in the \*Australian Business Register if the Registrar is satisfied that the registration should not have been cancelled.

- (2) The \*Registrar must give \*you written notice of the reinstatement.

Note: Section 12 deals with giving notice to a registered entity.

- (3) The reinstatement has effect on and from the day on which the registration was cancelled.



## **Division 7—Signatures**

### **20 Applications and notices must be signed**

An application under section 9, a notice under subsection 14(1) and information lodged under subsection 15(3) must either:

- (a) be signed by \*you, or the \*person lodging it on your behalf, if it is not \*lodged electronically; or
- (b) contain \*your \*electronic signature, or the electronic signature of the person lodging it on your behalf, if it is lodged electronically.

## Division 8—Review of decisions about registration

### 21 Review of decisions

- (1) Applications may be made to the Administrative Appeals Tribunal for review of the following decisions of the \*Registrar:
  - (a) a decision setting the date of effect of \*your registration under subsection 11(1);
  - (b) a decision refusing your application for registration under section 13 (including a decision that is taken to have been made because of subsections 13(2) and (3));
  - (c) a decision to cancel your registration under subsection 18(1);
  - (d) a decision to refuse to cancel your registration under subsection 18(4);
  - (e) a decision setting the date of effect of a cancellation of your registration under subsection 18(2) or (5).
- (2) If an application is made to the Tribunal for review of a decision referred to in paragraph (1)(b), the orders that may be made under subsection 41(2) of the *Administrative Appeals Tribunal Act 1975* include an order that the \*Registrar register \*you pending the determination of your application for review.
- (3) \*Your registration under an order under subsection (2) ceases to have effect when your application is finally disposed of.

### 22 Statement of rights to seek review

- (1) If:
  - (a) a decision of a kind referred to in section 21 is made; and
  - (b) notice in writing of the decision is given to a \*person whose interests are affected by the decision;that notice must:
  - (c) include a statement to the effect that, if the person is dissatisfied with the decision, application may, subject to the

*Administrative Appeals Tribunal Act 1975*, be made to the Tribunal for review of the decision; and

- (d) except where subsection 28(4) of that Act applies—also include a statement to the effect that the person may request a statement under section 28 of that Act.
- (2) A failure to comply with subsection (1) does not affect the validity of the decision.

## **Division 9—Offences in relation to use of ABNs**

### **23 Misuse of ABN**

- (1) \*You must not purport to identify yourself by using:
- (a) a number that is not an \*ABN as if it were an ABN; or
  - (b) an ABN that is not your own.

Penalty: Imprisonment for 2 years.

- (2) \*You must not purport to identify an \*entity that is an \*associate of yours by using:
- (a) a number that is not an \*ABN as if it were an ABN; or
  - (b) an ABN that is not the entity's own ABN.

Penalty: Imprisonment for 2 years.

## **Part 3—Administration**

### **Division 10—The Australian Business Register**

#### **24 The Australian Business Register**

- (1) The \*Registrar must establish and maintain an \*Australian Business Register.
- (2) The \*Australian Business Register may be kept in any form that the \*Registrar considers appropriate.

#### **25 Entries in the Australian Business Register**

- (1) Under paragraph 11(1)(b), the \*Registrar enters in the \*Australian Business Register in relation to each \*entity registered in the Register:
  - (a) the entity's name; and
  - (b) the entity's \*ABN; and
  - (c) the date of effect of the registration.
- (2) The \*Registrar must also enter the following details in the \*Australian Business Register in relation to the \*entity:
  - (a) an address for service of notices under this Act;
  - (b) the details prescribed in the regulations.

#### **26 Access to the Australian Business Register**

- (1) A \*person may inspect the \*Australian Business Register and take copies of entries in the Register on payment of the prescribed fee (if any).
- (2) Any disclosure necessary for the purposes of subsection (1) is authorised by this section.

**27 Evidentiary value of the Australian Business Register**

- (1) The \*Australian Business Register is admissible in proceedings as evidence of the matters registered in it.
- (2) If the \*Australian Business Register is kept by the use of a computer, the \*Registrar may issue a document containing the details of a matter taken from the Register.
- (3) The document issued under subsection (2) is admissible in proceedings as evidence of the matter.
- (4) The \*Registrar may give a \*person a certified copy of, or extract from, the \*Australian Business Register on payment of the prescribed fee (if any).
- (5) The certified copy is admissible in proceedings without any further proof of, or the production of, the original.
- (6) This section does not limit the manner in which evidence may be adduced, or the admissibility of evidence, under the *Evidence Act 1995*.

## **Division 11—Other administrative matters**

### **28 The Registrar**

- (1) There is to be a Registrar of the \*Australian Business Register.
- (2) The Commissioner of Taxation is the Registrar of the \*Australian Business Register.  

Note 1: Subsections 6B(6) and (6A) of the *Taxation Administration Act 1953* allow a person acting as Commissioner of Taxation to exercise the powers and perform the functions that this Act gives to the Registrar.

Note 2: Subsections 8(1) and (1A) of the *Taxation Administration Act 1953* allow the Registrar to delegate powers and functions that this Act gives the Registrar.
- (3) As well as the specific powers and functions conferred on the \*Registrar by this Act, the Registrar has the general administration of this Act.
- (4) For the purposes of any other law of the Commonwealth, this Act is taken to be one that the Commissioner of Taxation administers or has the general administration of.

### **29 Annual report on operation of this Act**

- (1) The \*Registrar must, as soon as practicable after 30 June in each year, prepare and give to the Minister a report on the working of this Act during the year ending on that 30 June.  

Note: Section 34C of the *Acts Interpretation Act 1901* applies to reports under this section.
- (2) The Minister must table a copy of the report before each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

Section 30

---

**30 Protection of confidentiality of information**

- (1) This section restricts what a \*person (the *entrusted person*) may do with \*protected information, or \*protected documents, that the person has obtained in the course of \*official employment.
- (2) The \*entrusted person:
  - (a) must not make a record of \*protected information; and
  - (b) must not disclose it to anyone else;if the recording or disclosure is not done in accordance with subsection (3).

Penalty: Imprisonment for 2 years.
- (3) It is not an offence against subsection (2) if any of the following apply to the recording or disclosure:
  - (a) the recording or disclosure is for the purposes of this Act;
  - (b) the recording or disclosure happens in the course of the performance of the duties of the \*entrusted person's \*official employment;
  - (c) the entrusted person is the \*Registrar and the disclosure is to:
    - (i) the Secretary of a Department of the Australian Public Service for the purposes of legislation administered by the Minister for that Department; or
    - (ii) the Chief Executive of a prescribed agency within the meaning of the *Financial Management and Accountability Act 1997* for the purposes of carrying out functions conferred on the agency by a law of the Commonwealth; or
    - (iii) another \*person for the purpose of that other person carrying out functions under a \*taxation law; or
    - (iv) the Administrative Appeals Tribunal in connection with proceedings under a taxation law;
  - (d) the disclosure is by a person authorised by the Registrar to disclose the information and the disclosure is made to:



- (i) the Secretary of a Department of the Australian Public Service for the purposes of legislation administered by the Minister for that Department; or
  - (ii) the Chief Executive of a prescribed agency within the meaning of the *Financial Management and Accountability Act 1997* for the purposes of carrying out functions conferred on the agency by a law of the Commonwealth; or
  - (iii) another person for the purpose of that other person carrying out functions under an Act administered by the Commissioner of Taxation.
- (4) Subsection (3) does not authorise the disclosure of information to a Minister.
- (5) Except where it is necessary to do so for the purpose of giving effect to a \*taxation law, the \*entrusted person is not to be required:
- (a) to produce any \*protected document to a court; or
  - (b) to disclose \*protected information to a court.
- (6) In this section:
- disclose* means divulge or communicate.

### **31 Regulations**

- (1) The Governor-General may make regulations prescribing matters:
- (a) required or permitted by this Act to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act;
- and, in particular:
- (c) prescribing fees; or
  - (d) prescribing penalties, not exceeding 10 penalty units, for offences against the regulations.
- (2) The amount of a fee prescribed under paragraph (1)(c):

**Part 3** Administration

**Division 11** Other administrative matters

**Section 31**

---

- (a) must be reasonably related to the expenses incurred or to be incurred by the \*Registrar in connection with the activity that attracts the fee; and
- (b) must not be such as to amount to taxation.

## **Part 4—Rules for interpreting this Act**

### **Division 12—Identifying defined terms**

#### **32 When defined terms are identified**

- (1) Many of the terms used in this Act are defined.
- (2) Most defined terms in this Act are identified by an asterisk appearing at the start of the term: as in “\*enterprise”. The footnote that goes with the asterisk contains a signpost to the Dictionary definitions in section 41.

#### **33 When terms are *not* identified**

Once a defined term has been identified by an asterisk, later occurrences of the term in the same subsection are *not* usually asterisked.

#### **34 Identifying the defined term in a definition**

Within a definition, the defined term is identified by ***bold italics***.

## **Division 13—What forms part of this Act**

### **35 What forms part of this Act**

- (1) These all form part of this Act:
  - the headings to the Parts, Divisions and Subdivisions of this Act;
  - the headings to the sections and subsections of this Act;
  - the notes and examples (however described) that follow provisions of this Act.
- (2) The asterisks used to identify defined terms form part of this Act. However, if a term is not identified by an asterisk, disregard that fact in deciding whether or not to apply to that term a definition or other interpretation provision.

### **36 What does not form part of this Act**

Footnotes and endnotes do not form part of this Act.

## **Division 14—Meaning of some important concepts**

### **37 Entity**

(1) **Entity** means any of the following:

- (a) an \*individual;
- (b) a body corporate;
- (c) a corporation sole;
- (d) a body politic;
- (e) a \*partnership;
- (f) any other unincorporated association or body of \*persons;
- (g) a trust;
- (h) a \*superannuation fund.

Note: The term **entity** is used in a number of different but related senses. It covers all kinds of legal person. It also covers groups of legal persons, and other things, that in practice are treated as having a separate identity in the same way as a legal person does.

(2) The trustee of a trust or of a \*superannuation fund is taken to be an entity consisting of the \*person who is the trustee, or the persons who are the trustees, at any given time.

Note: This is because a right or obligation cannot be conferred or imposed on an entity that is not a legal person.

(3) A legal \*person can have a number of different capacities in which the person does things. In each of those capacities, the person is taken to be a different entity.

Example: In addition to his or her personal capacity, an individual may be:

- sole trustee of one or more trusts; and
- one of a number of trustees of a further trust.

In his or her personal capacity, he or she is one entity. As trustee of each trust, he or she is a different entity. The trustees of the further trust are a different entity again, of which the individual is a member.

**Section 38**

---

- (4) If a provision refers to an entity of a particular kind, it refers to the entity in its capacity as that kind of entity, not to that entity in any other capacity.

Example: A provision that refers to a company does not cover a company in a capacity as trustee, unless it also refers to a trustee.

**38 Enterprise**

- (1) An *enterprise* is an activity, or series of activities, done:
- (a) in the form of a \*business; or
  - (b) in the form of an adventure or concern in the nature of trade; or
  - (c) on a regular or continuous basis, in the form of a lease, licence or other grant of an interest in property; or
  - (d) by the trustee of a fund that is covered by, or by an authority or institution that is covered by, Subdivision 30-B of the \*ITAA 1997 and to which deductible gifts can be made; or
  - (e) by a charitable institution or by a trustee of a charitable fund; or
  - (f) by a religious institution; or
  - (g) by the Commonwealth, a State or a Territory, or by a body corporate, or corporation sole, established for a public purpose by or under a law of the Commonwealth, a State or a Territory.
- (2) However, *enterprise* does not include an activity, or series of activities, done:
- (a) as an employee or other \*PAYE earner (unless it is done in supplying services as the holder of an office that the employee or PAYE earner has accepted in the course of or in connection with an activity or series of activities of the kind mentioned in subsection (1)); or
- Note: An employee's or PAYE earner's acts will still form part of the activities of the enterprise in which he or she is employed.
- (b) as a private recreational pursuit or hobby; or

- (c) by an individual (other than a trustee of a charitable fund), or a \*partnership (all the members of which are individuals), without a reasonable expectation of profit or gain; or
- (d) as a member of a local governing body established by or under a law of a State or Territory (other than an eligible local governing body within the meaning of section 221A of the \*ITAA 1936).

### **39 Carrying on an enterprise in Australia**

An \*enterprise is *carried on in Australia* if the enterprise is carried on through:

- (a) a permanent establishment (as defined in subsection 6(1) of the \*ITAA 1936); or
- (b) a place that would be such a permanent establishment if paragraph (e), (f) or (g) of that definition did not apply.

### **40 Electronic lodgment of documents**

A document is *lodged electronically* if it is transmitted to the Registrar in an electronic format approved by the Registrar.

## Division 15—The Dictionary

### 41 Dictionary

In this Act, except so far as the contrary intention appears:

**ABN (Australian Business Number)** for an \*entity means the entity's ABN as shown in the \*Australian Business Register.

**associate** has the meaning given by section 318 of the \*ITAA 1936.

**Australia** does not include any external Territory. However, it includes an installation (within the meaning of the *Customs Act 1901*) that is deemed by section 5C of the *Customs Act 1901* to be part of Australia.

**Australian Business Register** means the register established under section 24.

**business** includes any profession, trade, employment, vocation or calling, but does not include occupation as an employee.

**carried on in Australia**, in relation to an \*enterprise, has the meaning given by section 39.

**carrying on** an \*enterprise includes doing anything in the course of the commencement or termination of the enterprise.

**company** means:

- (a) a body corporate; or
  - (b) any other unincorporated association or body of \*persons;
- but does not include a \*partnership.

**Corporations Law company** means a body registered as a company under the Corporations Law.



**electronic signature**, in relation to a \*person, means a unique identification in an electronic form that is approved by the Commissioner of Taxation for the purposes of the \*ITAA 1936.

**enterprise** has the meaning given by section 38.

**entity** has the meaning given by section 37.

**entrusted person** has the meaning given by subsection 30(1).

**government entity** means:

- (a) a Department of State of the Commonwealth; or
- (b) a Department of the Parliament; or
- (c) a branch of the Australian Public Service in relation to which a \*person has, under an Act, the powers of, or exercisable by, the Secretary of a Department of the Australian Public Service; or
- (d) a Department of State of a State or Territory.

**individual** means a natural person.

**ITAA 1936** means the *Income Tax Assessment Act 1936*.

**ITAA 1997** means the *Income Tax Assessment Act 1997*.

**lodged electronically** has the meaning given by section 40.

**official employment** means:

- (a) appointment or employment by the Commonwealth, or the performance of services for the Commonwealth; or
- (b) the exercise of powers or performance of functions under a delegation by the \*Registrar.

Note: The Registrar may delegate powers and functions under section 8 of the *Taxation Administration Act 1953*.

**partnership** has the meaning given by section 995-1 of the \*ITAA 1997.

**PAYE earner** means an employee as defined by section 221A of the \*ITAA 1936.

Section 41

---

**person** includes a \*company.

**protected document** means any document made or given under, or for the purposes of, this Act.

**protected information** means information that meets all the following conditions:

- (a) it relates to the affairs of a \*person other than the \*entrusted person;
- (b) it was obtained by the entrusted person, or by any other person, in the course of \*official employment;
- (c) it was disclosed or obtained under this Act.

**Registrar** means the Registrar of the \*Australian Business Register.

**superannuation fund** has the meaning given by section 995-1 of the ITAA 1997.

**taxation law** has the meaning given by section 2 of the *Taxation Administration Act 1953*.

**TFN** means tax file number as defined in section 202A of the \*ITAA 1936.

**you**: if a provision of this Act uses the expression **you**, it applies to entities generally, unless its application is expressly limited.

Note: The expression **you** is not used in provisions that apply only to entities that are not individuals.

---

[*Minister's second reading speech made in—  
House of Representatives on 2 December 1998  
Senate on 10 December 1998*]

(215/98)

