



Radiocommunications (Transmitter Licence Tax) Amendment Act 2002

No. 7, 2002

**An Act to amend the *Radiocommunications
(Transmitter Licence Tax) Act 1983*, and for related
purposes**

Note: An electronic version of this Act is available in SCALEplus
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)

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An Act to amend the *Radiocommunications (Transmitter Licence Tax) Act 1983*, and for related purposes

[Assented to 4 April 2002]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Radiocommunications (Transmitter Licence Tax) Amendment Act 2002*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	4 April 2002
2. Schedule 1, item 1	29 March 1996	29 March 1996
3. Schedule 1, item 2	The day on which this Act receives the Royal Assent	4 April 2002

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table is for additional information that is not part of this Act. This information may be included in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Radiocommunications (Transmitter Licence Tax) Act 1983

1 At the end of section 6

Add:

Licences of more than 12 months where there is no application

(7) If:

- (a) a person is issued a transmitter licence for a period of more than 12 months under section 100B, 102 or 102A of the *Radiocommunications Act 1992*; and
- (b) before the licence is issued, the person makes an election under subsection (9) that this subsection is to apply;

tax is imposed on the issue of the licence for the period the licence is in force.

(8) Subject to subsections (11) and (12), if:

- (a) a person is issued a transmitter licence for a period of more than 12 months under section 100B, 102 or 102A of the *Radiocommunications Act 1992*; and
- (b) before the licence is issued, the person makes an election under subsection (9) that this subsection is to apply;

tax is imposed on:

- (c) the issue of the licence; and
- (d) each anniversary of the day the licence came into force occurring during the period the licence is in force.

(9) Before a person is issued a transmitter licence under section 100B, 102 or 102A of the *Radiocommunications Act 1992* for a period exceeding 12 months, the person must elect, in the form approved in writing by the ACA, that either subsection (7) or (8) is to apply in respect of the transmitter licence.

(10) However, for the purposes of this section, if the person does not make an election under subsection (9) before the transmitter licence is issued, the person is taken to have elected, before the licence is issued, that subsection (8) is to apply in respect of the licence.

- (11) If the holder of a transmitter licence:
- (a) before the licence is issued, elects that subsection (8) is to apply; and
 - (b) subsequently notifies the ACA, in writing, at least 21 days before the next anniversary of the day the licence came into force that is more than 12 months before the end of the period that the licence is in force, that this subsection is to apply;
- subsection (8) ceases to apply to the licence and tax is imposed on the holding of the licence on that anniversary.
- (12) If the holder of a transmitter licence:
- (a) before the licence is issued, elects that subsection (8) is to apply; and
 - (b) fails to pay tax imposed on an anniversary of the day the licence came into force within 60 days after that anniversary (the **60 day period**);
- subsection (8) ceases to apply the day after the end of the 60 day period and tax is imposed on the holding of the licence on that day.

Note 1: The following heading to subsection 6(1) is inserted “*Licences not exceeding 12 months*”.

Note 2: The following heading to subsection 6(2) is inserted “*Licences of more than 12 months where there is an application*”.

2 Transitional—deeming provisions for the transition from tax purportedly imposed on issued licences to tax actually imposed

Definitions

- (1) In this item:

issued licence means a transmitter licence issued for a period of more than 12 months under section 100B, 102 or 102A of the *Radiocommunications Act 1992* before this item commenced.

Licence Tax Act means the *Radiocommunications (Transmitter Licence Tax) Act 1983*.

Elections under subsection 6(9)

- (2) For the purposes of the Licence Tax Act:

- (a) a person who, before this item commenced, purportedly elected that subsection 6(2) of that Act is to apply to an issued licence, is taken instead to have elected at that time that subsection 6(7) is to apply to the licence; and
- (b) a person who, before this item commenced, purportedly elected that subsection 6(3) of that Act is to apply to an issued licence, is taken instead to have elected at that time that subsection 6(8) is to apply to the licence.

The election is taken to have been made in accordance with subsection 6(9) of the Licence Tax Act.

Note: Tax is therefore imposed by subsection 6(7) or (8) of the Licence Tax Act depending on the deemed election of the person. Tax might also be imposed by subsection 6(11) of that Act if a person is taken to have notified the ACA that the subsection is to apply (see subitem (4) of this item) or by subsection 6(12) of the Licence Tax Act if a person failed to pay the tax within the 60 day period mentioned in that subsection.

Discharge of liability for previous payments

- (3) For the purposes of the Licence Tax Act, a person who, before this item commenced, paid an amount that purported to be a payment of tax imposed by subsection 6(2), (3), (5) or (6) of that Act in respect of an issued licence, is taken instead to have paid the equivalent tax imposed on the licence by subsection 6(7), (8), (11) or (12).

Notifications under subsection 6(11)

- (4) For the purposes of the Licence Tax Act, a person who, before this item commenced, purportedly notified the ACA in accordance with subsection 6(5) of that Act that that subsection is to apply to an issued licence, is taken instead to have notified the ACA at that time that subsection 6(11) is to apply to the licence.

Section 7 determinations

- (5) For the purposes of the Licence Tax Act, a determination under section 7 of that Act that was made before this item commenced is taken always to have had effect as if:
 - (a) any reference in the determination to subsection 6(2) of that Act is taken also to include a reference to subsection 6(7); and

- (b) any reference in the determination to subsection 6(3) of that Act is taken also to include a reference to subsection 6(8);
and
 - (c) any reference in the determination to subsection 6(5) of that Act is taken also to include a reference to subsection 6(11);
and
 - (d) any reference in the determination to subsection 6(6) of that Act is taken also to include a reference to subsection 6(12).
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*[Minister's second reading speech made in—
House of Representatives on 14 February 2002
Senate on 11 March 2002]*

(10/02)
