



Statutory Rules

1976 No. 4

129/

REGULATIONS UNDER THE TAXATION ADMINISTRATION ACT 1953-1974.*

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulations under the *Taxation Administration Act* 1953-1974.

Dated this *twenty-third*
day of *June*, 1976.

John H. Kerr
Governor-General.

By His Excellency's Command,

PHILLIP LYNCH

Treasurer.

TAXATION ADMINISTRATION REGULATIONS

1. These Regulations may be cited as the Taxation Administration Regulations. Citation.
2. In these Regulations, unless the contrary intention appears— Definitions.
 "Board of Review", "Commissioner", "Deputy Commissioner" and "Second Commissioner", respectively, have the same meanings as in Part IV of the Act;
 "the Act" means the *Taxation Administration Act* 1953-1974.
3. An objection under section 14G of the Act may be posted to, or lodged with, the Commissioner at the address from which the notice of refusal to which the objection relates was issued. Address at which objection to be lodged.
4. Where, at the request of a person, the Commissioner refers a decision to a Board of Review in accordance with sub-section 14H(1) of the Act, the Commissioner— Particulars to be furnished by Commissioner.
 - (a) shall furnish to the Board of Review a printed or typewritten statement, in quadruplicate, containing—
 - (i) the name and address of the person who made the request;
 - (ii) full details of that person's objection to the decision; and
 - (iii) the Commissioner's reasons for disallowing that objection; and
 - (b) shall, at the same time, furnish a copy of the statement to the person who made the request.

* Notified in the *Australian Government Gazette* on 1/ 1976.
10582/76—Recommended retail price 15c

10/26.3.1976

24 June /

5. (1) A Board of Review shall number consecutively in the order of their receipt decisions that are referred to the Board of Review in accordance with sub-section 14H (1) of the Act and, unless the Chairman of the Board of Review otherwise directs, the requests shall be dealt with by the Board of Review in the order in which they are so referred.

Order, place and time of review.

(2) Sittings of a Board of Review for the purpose of reviewing decisions of the Commissioner shall be held at such places and times as are fixed by the Chairman of the Board of Review.

(3) A Board of Review shall not be required to sit on public holidays or during the yearly vacation referred to in sub-regulation 37 (3) of the Income Tax Regulations.

6. Where a decision is referred to a Board of Review in accordance with sub-section 14H (1) of the Act, the Chairman of the Board of Review shall cause notice of the place and time fixed for the review of the decision by the Board of Review to be served on the Commissioner and on the person who made the request, respectively, not less than 7 days before the date fixed for the review.

Notice of hearing.

7. (1) Subject to these Regulations, the procedure on a hearing of a review by a Board of Review shall be as the Chairman of the Board of Review directs.

Procedure and hearing of review.

(2) A sitting of a Board of Review for the purpose of hearing a review of a decision of the Commissioner shall not be held in public except at the request of the person who requested that the decision be referred to a Board of Review.

(3) Where a Board of Review sits in public on the hearing of a review, the decision of the Board of Review on the review shall be given at a sitting of the Board of Review held in public.

(4) Each party to a review is entitled to be represented at the hearing of the review by a person nominated by him.

(5) The Chairman of a Board of Review may adjourn the hearing of a review from time to time and from place to place.

8. (1) Subject to sub-regulation (3), a Board of Review—

Evidence.

- (a) shall take oral evidence on oath or affirmation;
- (b) may receive, without formal proof, a copy of a person's account with a bank, being a copy certified by a responsible officer of the bank to be a true copy of that account, and may take into consideration any entry or particulars contained in the copy;
- (c) may receive, without formal proof, a copy of a document in the possession of the Government of the Commonwealth or a State, of the Administration of a Territory of the Commonwealth or of a public authority, being a copy certified by a responsible officer of that Government, Administration or public authority to be a true copy of the document, and may take into consideration any matter or particulars contained in the copy; and
- (d) may receive, without formal proof, any other document containing statements or particulars that, in the opinion of the Board of Review, are relevant to a question in issue on a review, other than a document that has been brought into existence solely for the purpose of the review, and may take those statements or particulars into consideration on the review.

(2) For the purpose of the taking of oral evidence by a Board of Review, the Chairman of the Board of Review or, in his absence, the person performing the duties of Chairman of the Board of Review may administer an oath or take an affirmation.

(3) The Chairman of a Board of Review may, by notice in writing, require a person—

- (a) to furnish to the Board of Review such information, being information relevant to a review, as is specified in the notice; and
- (b) to attend before the Board of Review, or before the Chairman of the Board of Review or a member of the Board of Review authorized by the Board of Review for the purpose, on a day and at a time and place specified in the notice, and then and there to give evidence concerning a matter, being a matter relating to the decision under review, specified in the notice, whether the request for the review was made by that person or by some other person, and to produce to the Board of Review all books, documents and other papers in his custody or under his control relating to that matter,

and the Chairman of the Board of Review may require the information or evidence to be given on oath or affirmation, and either orally or in writing, and for that purpose the Chairman of the Board of Review or the member of the Board of Review may administer an oath or take an affirmation.

(4) A person shall not, without just cause or excuse, refuse or fail to comply with a requirement of a notice given to him under sub-regulation (3) or to answer fully and truthfully a question put to him by the Chairman or a member of a Board of Review in connexion with a review.

Penalty: \$40.

(5) A person who is required under sub-regulation (3) to attend and give evidence in connexion with a review, is entitled to be paid such fees and travelling expenses, in accordance with the scale in the Second Schedule to the Public Works Committee Regulations as in force from time to time under the *Public Works Committee Act 1969-1974*, as the Board of Review determines.

(6) The fees and expenses payable to a person under sub-regulation (5) are payable—

- (a) in the case of a person required to attend at the request of the person who requested the review—by that last-mentioned person; and
- (b) in any other case—by the Commonwealth.

9. (1) When a Board of Review has completed its review of a decision referred to it in accordance with sub-section 141I (1) of the Act, it shall forward a copy of its decision to the Commissioner and to the person who requested the review.

Decisions of Board of Review.

(2) A Board of Review may, from time to time, compile and publish summaries of its decisions.

10. Communications to a Board of Review in relation to a review of a decision referred to it in accordance with sub-section 141I (1) of the Act may be addressed to the Chairman of the Board of Review and furnished to the Chairman at the address from which the decision was given.

Communication to Board.

11. (1) A notice that is required by the Act or these Regulations to be given to or served on a person by the Chairman of a Board of Review may, without prejudice to any other method of service, be given or served personally or by post addressed to the person at his place of residence or business last-known to the Chairman of the Board of Review or at an address that under regulation 13 is his address for service for the purposes of these Regulations.

Giving of notices.

(2) A notice that is required by the Act or these Regulations to be given to or served on a person by the Commissioner may be under the hand of an officer of the Commissioner duly authorized to give or serve a class of notices in which the notice is included, and a notice purporting to be signed by a person so authorized shall, unless the contrary is proved, be deemed to have been so signed.

12. Where a certificate, notice or other document has a facsimile of the signature of the Commissioner, a Second Commissioner or a Deputy Commissioner stamped or printed on it, the certificate, notice or document is, unless it is proved that it was issued without due authority, as valid and effectual as it would be if signed personally by the Commissioner, a Second Commissioner or a Deputy Commissioner, as the case may be.

Manner of signing documents.

13. (1) A person who makes application to the Commissioner under section 14B of the Act for a tax clearance certificate shall specify in that application or in a document accompanying that application an address in Australia that is to be his address for service under these Regulations.

Address for service.

Penalty: \$40.

(2) Where a person who has given to the Commissioner, at an office of a Deputy Commissioner, an address as his address for service under these Regulations changes that address, he may give to the Commissioner at that office notice in writing of the new address in Australia that is to be his address for service under these Regulations.

(3) The address for service of a person for the purpose of these Regulations is—

- (a) if the person has given an address for service under sub-regulation (2)—the address or the last address so given by him; or
- (b) in any other case—the address for service of the person in accordance with sub-regulation (1).

14. An allowance to the payment of which a person is entitled under subsection 141(3) of the Act shall be determined in accordance with the scale in the Second Schedule to the Public Works Committee Regulations as in force from time to time under the *Public Works Committee Act 1969-1974*.

Expenses of persons required to attend and give evidence.

15. (1) In any proceedings against a person for failing or neglecting duly to comply with a requirement of the Commissioner under section 141 of the Act, being a requirement that that person furnish the Commissioner with information, a certificate in writing signed by the Commissioner, a Second Commissioner or a Deputy Commissioner certifying that the person failed or neglected to furnish the Commissioner with that information in accordance with the requirement is *prima facie* evidence of the facts stated in the certificate.

Certificate of failure to furnish information.

(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 sub-regulation (1).

(3) Where the Commissioner, a Second Commissioner or a Deputy Commissioner has, by instrument in force under sub-regulation (2), authorized a person to sign certificates under sub-regulation (1), a reference in this regulation to a certificate under sub-regulation (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 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.