

# **A New Tax System (Australian Business Number) Amendment Regulations 2001 (No. 1) 2001 No. 316**

## **EXPLANATORY STATEMENT**

### **Statutory Rules 2001 No. 316**

Issued by authority by the Assistant Treasurer

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

A New Tax System (Australian Business Number) Amendment Regulations 2001 (No. 1)

Section 31 of the *A New Tax System (Australian Business Number) Act 1999* (the Act) provides that the Governor-General may make regulations prescribing matters required to give effect to the Act.

The purpose of the Regulations is to clarify circumstances in which the Registrar of the Australian Business Register can disclose Australian Business Number (ABN) information. Previously, disclosure of ABN information was limited to being only in respect of agency functions having a direct nexus with the agency's legislation. This was significantly narrower than the government intended when it introduced the ABN. Otherwise, the Regulations are to provide the public with a fuller picture of the historical status of ABN holders in general.

The Regulations enable the Registrar to disclose:

- more complete historical information from the Australian Business Register to the public;
- information in the Australian Business Register to Agency Heads and heads of Departments of a State or Territory for the purpose of carrying out their agencies' functions; and
- information in the Australian Business Register to the Employment Advocate for the purposes of carrying out his functions.

Details of the amending Regulations are set out in the attachment.

The amended Regulations commence on gazettal.

## **ATTACHMENT**

### **A New Tax System (Australian Business Number) Amendment Regulations 2001 (No. 1)**

Details of the regulations are as follows.

#### **Regulation 1 - Name of regulations**

The amending regulations are called the A New Tax System (Australian Business Number) Amendment Regulations 2001 (No. 1).

#### **Regulation 2 - Commencement**

The Regulations commence on gazettal.

#### **Regulation 3 - Amendment to the A New Tax System (Australian Business Number) Regulations 1999 (ABNR 1999)**

Regulation 3 amends the ABNR 1999 by the amendments contained in Schedule 1 to the amending Regulations.

#### ***Schedule 1, item 1***

##### *Regulation 8: Prescribed details*

Item 1 of Schedule 1 to the amending regulations allows the Registrar to disclose certain additional information from the Australian Business Register (ABR) to the public.

When the Registrar registers an entity, he enters into the ABR various details collected in the Australian Business Number (ABN) registration process in accordance with section 25 of the *A New Tax System (Australian Business Number) Act 1999* (the Act). The details include:

- the entity's name, ABN, date of effect of registration and address; and
- any extra details prescribed under Regulations 5 and 6 of the ABNR 1999 including the date of effect of the change of the entity's ABN and the date of effect of the cancellation of the entity's ABN registration.

The Registrar is authorised by subsection 26(5) of the Act to make publicly available certain details of entities registered in the ABR.

The list of publicly available ABN information is set out in subsection 26(3) of the Act. The list includes a regulation making power at paragraph 26(3)(k) which allows the prescription of further matters to be included in the list should the need arise.

For the purposes of paragraph 26(3)(k) of the Act, the amending Regulations insert the following further details in the list of publicly available ABN information:

- if the Registrar changes the entity's ABN - the date of the change; and
- if the Registrar cancels the entity's ABN registration - the date of cancellation.

The Regulations provide for a more accurate record of the status of some ABN holders which will assist the public in complying with taxation legislation. Due to public interest concerns, such as in long running disputes or litigation cases, it is appropriate to make this information publicly available even though an ABN registration has been cancelled or changed.

## **Schedule 1, item 2**

### *Regulation 9: Prescribed bodies and purposes*

Item 2 of Schedule 1 to the amending Regulations inserts a new Part 4 in the ABNR 1999. The new Part provides for the disclosure of ABN information to specified prescribed bodies, for specified prescribed purposes, for the purposes of subparagraphs 30(3)(c)(viii) and (d)(vi) of the Act. The new Part contains Regulation 9 which provides for:

- an Agency Head to be a prescribed body and the carrying out of the functions of his or her agency to be the prescribed purpose for that body;
- a head of a Department of a State or Territory to be a prescribed body and the carrying out of the functions of his or her Department to be the prescribed purpose for that body; and
- the Employment Advocate to be a prescribed body and the carrying out his functions to be the prescribed purpose for that body.

The Regulations will allow the Registrar to disclose protected information to Agency Heads and heads of State or Territory Departments for purposes of carrying out their functions. This will allow agency and departmental heads to work together to reduce the duplication of registration and data, by streamlining registration and related processes and systems, in order to ease this type of burden on business. Accordingly, these agencies and departments should be more able to focus on their core business of delivering services.

The Employment Advocate is not an Agency Head but a separate entity from the Department of Employment, Workplace Relations and Small Business under section 83BB of the *Workplace Relations Act 1996*. Accordingly, the Employment Advocate has to be prescribed as a separate body for the purposes of disclosing ABN information.