



Radiocommunications (Spectrum Licence Tax) Determination 2021

made under sections 4 and 7 of the

Radiocommunications (Spectrum Licence Tax) Act 1997

Compilation No. 1

Compilation date: 5 October 2022

Includes amendments up to: F2022L01318

Prepared by the Australian Communications and Media Authority, Melbourne

About this compilation

This compilation

This is a compilation of the *Radiocommunications (Spectrum Licence Tax) Determination 2021* that shows the text of the law as amended and in force on 5 October 2022 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Federal Register of Legislation (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Federal Register of Legislation for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Federal Register of Legislation for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

1 Name

This is the *Radiocommunications (Spectrum Licence Tax) Determination 2021*.

3 Authority

This instrument is made under subsections 4(1) and 7(1) of the Act.

5 Interpretation

(1) In this instrument:

Act means *Radiocommunications (Spectrum Licence Tax) Act 1997*.

Designated Spectrum Licence means a spectrum licence issued under Part 3.2 of the *Radiocommunications Act 1992*, other than the following:

- (a) a spectrum licence issued to:
 - (i) a Department of State of the Commonwealth of Australia; or
 - (ii) an Executive Agency established under section 65 of the *Public Service Act 1999*; or
 - (iii) a Statutory Agency within the meaning of section 7 of the *Public Service Act 1999*;
- (b) a spectrum licence issued with one or more conditions that require the licensed spectrum to be used only for the provision of a television outside broadcast service;
- (c) a spectrum licence issued with one or more conditions that require the licensed spectrum to be used only for the provision of rail safety, rail operations or rail control.

EME Component, for a spectrum licence, means the amount calculated in accordance with Schedule 2.

Main Component, for a spectrum licence, means the amount calculated in accordance with Schedule 1.

Note 1: A number of other expressions used in this instrument are defined in the Act, including the following:

- (a) ACMA;
- (b) initial holding date;
- (c) spectrum licence;
- (d) tax.

Note 2: Other expressions used in this instrument may be defined in a determination made under subsection 64(1) of the *Australian Communications and Media Authority Act 2005*.

Note 3: For the definition of **Designated Spectrum Licence**, see the *Australian Communications and Media Authority (Modifications to Apparatus and Spectrum Licences Taxes) Direction 2020*. That direction can be accessed, free of charge, on the Federal Register of Legislation at www.legislation.gov.au.

(2) In this instrument, a reference to a part of the spectrum, a frequency band or a frequency range includes all frequencies that are greater than but not including the lower frequency, up to and including the higher frequency.

Note: This means the lower number in the reference to a part of the spectrum, a frequency band or a frequency range is not included in the part of the spectrum, the frequency band or the frequency range.

6 References to other instruments

In this instrument, unless the contrary intention appears:

- (a) a reference to any other legislative instrument is a reference to that other legislative instrument as in force from time to time; and
- (b) a reference to any other kind of instrument is a reference to that other instrument as in force or existing at the commencement of this instrument.

Note 1: For references to Commonwealth Acts, see section 10 of the *Acts Interpretation Act 1901*; and see also subsection 13(1) of the *Legislation Act 2003* for the application of the *Acts Interpretation Act 1901* to legislative instruments.

Note 2: All Commonwealth Acts and legislative instruments are registered on the Federal Register of Legislation at www.legislation.gov.au.

7 Initial holding date

For subsection 4(1) of the Act, the **initial holding date** for a spectrum licence is:

- (a) if the licence is in force on 11 October 2021 – that day; or
- (b) if the licence comes into force on 11 October in a year after 2021 – the day the licence comes into force; or
- (c) for any other spectrum licence – the 11 October that first occurs after the licence came into force.

8 Amount of spectrum licence tax

- (1) For subsection 7(1) of the Act, the amount of tax in relation to a spectrum licence is ascertained in accordance with this section.
- (2) For a spectrum licence other than a Designated Spectrum Licence, the amount of tax in relation to the licence is equal to the Main Component for the licence.
- (3) For a Designated Spectrum Licence, the amount of tax in relation to the licence is equal to the sum of the Main Component for the licence and the EME component for the licence.

Schedule 1 – Main Component

(section 5)

1 Definitions

In this Schedule:

area population, for a geographic area, means the population of that geographic area, determined in accordance with the HCIS population data document.

Australian population means 25,362,351.

base amount: see subclause 2(1).

expiry date, for a spectrum licence, means the last day of the period specified in the licence for the purposes of subsection 65(2) of the *Radiocommunications Act 1992*.

geographic area, in relation to a licensed frequency range in a spectrum licence, means the area specified in the core condition mentioned in paragraph 66(1)(c) of the *Radiocommunications Act 1992* for that licensed frequency range.

HCIS population data document means the document that sets out population data for areas in Hierarchical Cell Identification Scheme levels 1 to 4 in the set of documents entitled Hierarchical Cell Identification Scheme (HCIS) – List of Population Data, published by the ACMA on its website and as existing at the commencement of the *Radiocommunications (Spectrum Licence Tax) Amendment Determination 2022 (No.1)*.

Note 1: The geographic area in relation to a licensed frequency range in a spectrum licence is described by reference to Hierarchical Cell Identification Scheme identifiers, in accordance with the Australian Spectrum Map Grid 2012.

Note 2: The HCIS population data document and the Australian Spectrum Map Grid 2012 are both available, free of charge, from the ACMA website at www.acma.gov.au.

Note 3: The HCIS population data document is incorporated as existing at the time the *Radiocommunications (Spectrum Licence Tax) Amendment Determination 2022 (No.1)* commenced. At that time, the HCIS population data document was based on population data reported in the 2021 census of Population and Housing.

last anniversary, for a spectrum licence, means the anniversary of the initial holding date for the licence occurring less than 12 months before the expiry date for the licence.

licensed frequency range, in a spectrum licence, means a part of the spectrum specified in the core condition mentioned in paragraph 66(1)(a) of the *Radiocommunications Act 1992*.

relevant frequency band: see subclause 2(1).

SL bandwidth: see subclause 2(2).

total specified spectrum: see subclause 2(1).

2 Base amount, relevant frequency band, total specified spectrum and SL bandwidth

(1) For the purposes of this Schedule:

- (a) if a licensed frequency range in a spectrum licence falls within a frequency band specified in column 1 of the table, the frequency band is a **relevant frequency band** for the licence; and
- (b) column 2 specifies the **total specified spectrum** for each relevant frequency band for the licence; and

- (c) column 3 specifies the **base amount** for each relevant frequency band for the licence.

Item	Column 1	Column 2	Column 3
	Frequency band	Total specified spectrum	Base amount (\$)
1	703 MHz to 748 MHz 758 MHz to 803 MHz	90 MHz	49,938
2	814 MHz to 845 MHz 859 MHz to 915 MHz 935 MHz to 960 MHz	112 MHz	62,146
3	1710 MHz to 1755 MHz 1805 MHz to 1850 MHz	90 MHz	49,864
4	1755 MHz to 1785 MHz 1850 MHz to 1880 MHz	60 MHz	33,243
5	1920 MHz to 1980 MHz 2110 MHz to 2170 MHz	120 MHz	66,485
6	2302 MHz to 2400 MHz	98 MHz	54,296
7	2500 MHz to 2570 MHz 2620 MHz to 2690 MHz	140 MHz	77,566
8	2570 MHz to 2620 MHz	50 MHz	27,702
9	3400 MHz to 3700 MHz	300 MHz	166,032
10	20,200 MHz to 21,200 MHz 30,000 MHz to 31,000 MHz	2,000 MHz	42,257
11	25,100 MHz to 27,500 MHz	2,400 MHz	50,708

Note: Each frequency band in column 1 comprises a part of the spectrum in which the ACMA has allocated or issued spectrum licences, or has made arrangements for the allocation and issue of spectrum licences.

- (2) In this Schedule, the **SL bandwidth** of a licensed frequency range, for a relevant frequency band, is the amount of spectrum (in MHz) in the licensed frequency range that falls within the relevant frequency band.

3 Calculating the Main Component for a spectrum licence

- (1) Subject to subclauses (4) and (5), for:
- the tax imposed on the initial holding date for a spectrum licence; or
 - the tax imposed on each anniversary of the initial holding date for a spectrum licence, other than the last anniversary for the licence;
- the Main Component for the licence is calculated by following Step 1A, Step 2 and Step 3 in subclause (3).
- (2) Subject to subclauses (4) and (5), for the tax imposed on the last anniversary for the spectrum licence, the Main Component for the licence is calculated by following Step 1B, Step 2 and Step 3 in subclause (3).
- (3) The steps for calculating the Main Component for a spectrum licence are:

Step 1A

For each relevant frequency band for the licence, identify:

- each licensed frequency range that falls within the relevant frequency band; and

- (b) the geographic area (**GA**) for each licensed frequency range identified in paragraph (a); and
- (c) the base amount for that relevant frequency band (**corresponding base amount**); and

for each licensed frequency range identified in paragraph (a), multiply the corresponding base amount by:

$$\frac{\text{area population for GA}}{\text{Australian population}} \times \frac{\text{SL bandwidth for the licensed frequency range}}{\text{total specified spectrum for the relevant frequency band}}$$

Step 1B

For each relevant frequency band for the licence, identify:

- (a) each licensed frequency range that falls within the relevant frequency band; and
- (b) each geographic area (**GA**) for each licensed frequency range identified in paragraph (a); and
- (c) the base amount for that relevant frequency band (**corresponding base amount**); and

for each licensed frequency range identified in paragraph (a), multiply the corresponding base amount by:

$$\frac{\text{area population for GA}}{\text{Australian population}} \times \frac{\text{SL bandwidth for the licensed frequency range}}{\text{total specified spectrum for the relevant frequency band}} \times \frac{\text{days}}{365}$$

where **days** means the number of days in the period:

- (d) starting on the last anniversary for the licence; and
- (e) ending on the expiry date for the licence.

Step 2

Add together all the amounts worked out in Step 1A or Step 1B. If the result is not a whole dollar amount:

- (a) if the result ends in an amount less than 50 cents – round down to the next dollar;
- (b) otherwise – round up to the next dollar.

Note: Step 2 may be substituted by subclause (4).

Step 3

The **Main Component** for the licence is the greater of:

- (a) the amount worked out in Step 2; and
- (b) \$7.

- (4) If a spectrum licence authorises the use of spectrum in either of the following frequency bands:

- (a) 2570 MHz to 2585 MHz;
- (b) 2605 MHz to 2620 MHz;

then, instead of Step 2 in subclause (3), use the following Step 2:

Step 2

Add together all the amounts worked out in Step 1A or Step 1B, and reduce the result by one third (**discounted result**). If the discounted result is not a whole dollar amount:

- (a) if the discounted result ends in an amount less than 50 cents – round down to the next dollar;

- (b) otherwise – round up to the next dollar.
- (5) Despite anything else in this clause, if a spectrum licence authorises the use of spectrum in both of the following frequency bands:
- (a) 824 MHz to 825 MHz;
 - (b) 869 MHz to 870 MHz;
- and in no other part of the spectrum, the *Main Component* for the licence is \$7.

Schedule 2 – EME Component

(section 5)

1 Definitions

In this Schedule:

MCL, for a Designated Spectrum Licence for a financial year, means the Main Component for the licence calculated on 11 October in that financial year.

total annual EME Component means:

- (a) for each of the 2021-2022 financial year and the 2022-2023 financial year – \$2.6 million; or
- (b) for the 2023-2024 financial year, and each subsequent financial year – \$1.9 million.

Note: The *Australian Communications and Media Authority (Modifications to Apparatus and Spectrum Licences Taxes) Direction 2020* requires the ACMA to adjust the amount of the total annual EME Component for financial years after the 2023-2024 financial year, by applying the Consumer Price Index to \$1.9 million.

total Main Component, for a financial year, means the sum of the MCL for each Designated Spectrum Licence in force on 11 October in that financial year.

2 Calculating the EME Component for a Designated Spectrum Licence

For the tax imposed on the initial holding date for a Designated Spectrum Licence, and on each anniversary of the initial holding date for a Designated Spectrum Licence, the EME Component for the licence is calculated by following Step 1 and Step 2:

Step 1

For the financial year in which tax is imposed, apply the following formula:

$$\frac{\text{MCL for the licence for that financial year}}{\text{total Main Component for that financial year}} \times \text{total annual EME component for that financial year}$$

Step 2

The **EME Component** for the licence is

- (a) if the result of Step 1 is a whole dollar amount – that amount;
- (b) otherwise – the amount worked out in Step 1 rounded down to the nearest whole dollar.

Example: For the 2021-2022 financial year, where:

- (a) the total annual EME Component for the financial year is \$2.6 million; and
- (b) the total Main Component for the financial year is \$400,000; and
- (c) for a particular Designated Spectrum Licence, MCL is \$100,000;

the EME Component for that Designated Spectrum Licence for that financial year is:

$$\frac{\$100,000}{\$400,000} \times \$2.6 \text{ million} = \$650,000$$

Endnotes

Endnote 1 – About the endnotes

The endnotes provide information about this compilation and the compiled law.

Endnote 2 (Abbreviation key) sets out abbreviations that may be used in the endnotes.

Endnote 3 (Legislation history) provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

Endnote 4 (Amendment history) provides information about the amendments at the provision (generally section or equivalent) level and includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

It also includes information about any misdescribed amendment (that is, an amendment that does not accurately describe the amendment to be made). If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history. If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

ad = added or inserted	(md not incorp) = misdescribed amendment cannot be given effect
am = amended	mod = modified/modification
amdt = amendment	No. = Number(s)
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
Ch = Chapter(s)	Pt = Part(s)
def = definition(s)	r = regulation(s)/rule(s)
Dict = Dictionary	rep = repealed
disallowed = disallowed by Parliament	rs = repealed and substituted
Div = Division(s)	s = section(s)/subsection(s)
exp = expires/expired or ceases/ceased to have effect	Sch = Schedule(s)
F = Federal Register of Legislation	Sdiv = Subdivision(s)
gaz = gazette	<u>underlining</u> = whole or part not commenced or to be commenced
LA = <i>Legislation Act 2003</i>	
LIA = <i>Legislative Instruments Act 2003</i>	
(md) = misdescribed amendment can be given effect	

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
<i>Radiocommunications (Spectrum Licence Tax) Amendment Determination 2021</i>	13 September 2021 (see F2021L01256)	14 September 2021	
<i>Radiocommunications (Spectrum Licence Tax) Amendment Determination 2022 (No.1)</i>	4 October 2022 (see F2022L01318)	5 October 2022	

Endnote 4—Amendment history

Provision affected	How affected
s.2.....	rep. LA s.48D
s.4.....	rep. LA s.48C
Schedule 1, Clause 1	am. F2022L01318
