



## **Radiocommunications (Spectrum Licence Tax) Determination 2021**

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The Australian Communications and Media Authority makes the following determination under sections 4 and 7 of the *Radiocommunications (Spectrum Licence Tax) Act 1997*.

Dated: 9 September 2021

Chris Jose  
[signed]  
Member

Linda Caruso  
[signed]  
~~Member~~/General Manager

Australian Communications and Media Authority

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## 1 Name

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

## 2 Commencement

This instrument commences at the start of the day after the day it is registered on the Federal Register of Legislation.

Note: The Federal Register of Legislation may be accessed free of charge at [www.legislation.gov.au](http://www.legislation.gov.au).

## 3 Authority

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

## 4 Repeal of the *Radiocommunications (Spectrum Licence Tax) Determination 2014*

The *Radiocommunications (Spectrum Licence Tax) Determination 2014* (F2014L00957) is repealed.

## 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](http://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](http://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 23,347,848.

**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.

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](http://www.acma.gov.au).

Note 3: In accordance with section 6, the HCIS population data document is incorporated as existing at the time this instrument commenced. At that time, the HCIS population data document was based on population data reported in the 2016 census.

**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
- the geographic area (**GA**) for each licensed frequency range identified in paragraph (a); and
- 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:

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