

1994

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**RADIOCOMMUNICATIONS TAXES COLLECTION AMENDMENT BILL 1994**

**RADIOCOMMUNICATIONS (TRANSMITTER LICENCE TAX)  
AMENDMENT BILL 1994**

**RADIOCOMMUNICATIONS (RECEIVER LICENCE TAX)  
AMENDMENT BILL 1994**

EXPLANATORY MEMORANDUM

(Circulated by the authority of the Minister for Communications and the Arts, the  
Hon. Michael Lee MP)

**Radiocommunications Taxes Collection Amendment Bill 1994**

**Radiocommunications (Transmitter Licence Tax) Amendment Bill 1994**

**Radiocommunications (Receiver Licence Tax) Amendment Bill 1994**

**OUTLINE**

The Radiocommunications Taxes Collection Amendment Bill 1994, the Radiocommunications (Transmitter Licence Tax) Amendment Bill 1994 and the Radiocommunications (Receiver Licence Tax) Amendment Bill 1994 respectively amend the *Radiocommunications Taxes Collection Act 1983*, the *Radiocommunications (Transmitter Licence Tax) Act 1983* and the *Radiocommunications (Receiver Licence Tax) Act 1983*. The purpose of the amendments is to assist the implementation of a new apparatus licensing regime which has resulted from a public inquiry by the Spectrum Management Agency (SMA).

A majority of submissions to the inquiry supported the issuing of apparatus licences under the *Radiocommunications Act 1992* for periods of up to 5 years, and greater flexibility for licensees in relation to the payment of licence fees, either by full up-front payment, or by annual instalments which may or may not be equal.

With the commissioning of its new licensing computer system in March 1995, the SMA will be in a position to issue apparatus licences for terms of up to 5 years. In order that spectrum users be given maximum flexibility in organising their licensing arrangements, the proposed amendments will enable a licence applicant or licensee to choose one of the following tax options for licences of 12 months or more:

- (i) for an apparatus licence issued for a period of 12 months, payment of the annual licence fee current at the time the licence is issued; or
  - (ii) for a licence issued for a period of more than 12 months, payment at the time of issue of the total licence fees
    - the amount of the fees is to be calculated by multiplying the current annual fee by the number of years for which the licence is issued, for example, the amount of the fees for a 5 year licence would be 5 times the annual fee at the time of issue;
- or

- (iii) for a licence issued for a period of more than 12 months, payment upon issue, and on each anniversary of the date of issue for the term of the licence, of an annual instalment
  - the amount of fee paid on each occasion will be the annual fee current at the time of payment. This will mean that the amount paid each time will be the annual fee in the most recent SMA determination. (It is expected that the SMA will make a new determination each 12 months changing the annual fee for most licence categories.)
  - under this option, the SMA will impose an administrative charge under section 293 of the *Radiocommunications Act 1992* to cover the cost of sending out each instalment notice; or
- (iv) for a licence issued for a period of more than 12 months, where the licensee has previously elected to pay by annual instalments, and then decides to pay the balance of the licence fees, payment of the balance on the next occurring anniversary of the issue of the licence.

Where a licensee defaults on a payment of tax, the licensee will have failed to comply with the Act, which would allow the suspension or cancellation of the licence. However, it is also intended that where a licensee has been issued a licence for a period exceeding 12 months and is paying tax upon each anniversary of the issue of the licence, but does not pay upon the due date for an anniversary, the licensee will become liable for an interest penalty on the outstanding amount, the rate of interest to be determined by the SMA by disallowable instrument. If default persists for 60 days following the anniversary payment due date, tax will be imposed of an amount which reflects the total amount payable over the remaining period of the licence. The amount will be set out in a determination and is to be calculated by multiplying the determined annual tax (applying at the date of the imposition) by the number of days of the remaining term of the licence (calculated from the last occurring anniversary of the issue of the licence) divided by 365. Payment of any accrued interest penalty would be required in addition to payment of the tax for the remaining period of the licence.

### **FINANCIAL IMPACT**

It is not possible to make a firm estimate of the financial impact of the proposed amendments as it is impossible to estimate accurately what percentage of licensees will take up the option of apparatus licences of more than 12 months when that option is made generally available to licensees and, of those, what proportion will elect to pay the full fee up-front, rather than pay on each anniversary during the currency of the licence.

However, assuming no change in the number of licences or the overall average level of licence fees for the next 5 years, the table below indicates the estimated fiscal effect in the case that 0 per cent, 10 per cent and 20 per cent respectively of licences are renewed up-front for a period of 5 years from 1994-95.

(For the purposes of this example licence revenue has been expressed in constant 1994/95 prices and assuming no growth or reduction in the number of licences on issue.)

	1994/95 \$m	1995/96 \$m	1996/97 \$m	1997/98 \$m	1998/99 \$m	1999/00 \$m
All annual payments	94.0	94.0	94.0	94.0	94.0	94.0
10% of licences are renewed for 5 years up-front	131.6	84.6	84.6	84.6	84.6	131.6
20% of licences are renewed for 5 years up-front	169.2	75.2	75.2	75.2	75.2	169.2

(This model also assumes that all those who would favour the up-front payment option will take it immediately. It is possible that this would be taken up by some licensees in the first year and more in subsequent years, this would again vary the pattern of cash flows.)

The SMA has indicated that, in its view, it is more likely that 10 per cent will take up the option than 0 per cent or 20 per cent - but stresses that this prediction is not one that can be made with any degree of confidence. The SMA has also indicated that, under accrual accounting, which is practised by the SMA, any fluctuations in cash flow as a result of payments up-front would be smoothed out, that is, in accrual accounting terms, the impact of the shift to up-front payments would be negligible. However, in terms of impact on consolidated revenue cash flows, there would be the impact as estimated in the table.

## NOTES ON CLAUSES

### **Radiocommunications Taxes Collection Amendment Bill 1994**

#### **Clause 1 - Short title etc.**

This clause provides for the citation of the *Radiocommunications Taxes Collection Amendment Act 1994*.

This clause also provides that in the amending Act, "Principal Act" means the *Radiocommunications Taxes Collection Act 1983*.

#### **Clause 2 - Commencement**

This clause provides for the amending Act to commence upon Proclamation. This commencement will enable administrative arrangements to be put in place for the commissioning of the SMA's new computer licensing system. This clause also includes the standard provision providing for commencement 6 months after Royal Assent if the Act is not proclaimed to commence earlier.

#### **Clause 3 - Amendments**

This clause provides for the Principal Act to be amended as set out in the Schedule.

## **SCHEDULE**

### **Item 1 - Section 6**

The amendment made by item 1 is consequential to the amendment of section 7 of the Principal Act, and to the proposed amendments to the *Radiocommunications (Transmitter Licence Tax) Act 1983* and the *Radiocommunications (Receiver Licence Tax) Act 1983*, which will enable tax to be imposed on the issue, the anniversary of the issue or the holding of a licence. The amendment makes the tax payable by the holder of the instrument in each case.

**Item 2 - Section 7**

Item 2 substitutes a new section 7 in the Principal Act to provide for the time for payment of tax imposed on the issue, anniversary of the issue or the holding of an apparatus licence. The "holding" of a licence refers to a licensee who has elected to pay tax by anniversary instalments, and then decides to pay the balance of taxes (new subsection 7(3)), or a licensee who defaults on an anniversary payment for a period exceeding 60 days (new subsection 7(4)).

Item 2 also inserts a new section 7A in the Principal Act to provide for the SMA to make written determinations for, and in relation to, the penalty for late payment of taxes (new subsection 7A(1)). Such determinations are to be disallowable instruments (new subsection 7A(2)).

Such determinations could provide for the calculation of late payment penalty and for other matters in relation to such a penalty, such as recovery of penalty, manner of payment and remission or refund in specified circumstances.

**Radiocommunications (Transmitter Licence Tax) Amendment Bill 1994****Clause 1 - Short title etc.**

This clause provides for the citation of the *Radiocommunications (Transmitter Licence Tax) Amendment Act 1994*.

This clause also provides that in the amending Act, "Principal Act" means the *Radiocommunications (Transmitter Licence Tax) Act 1983*.

**Clause 2 - Commencement**

This clause provides for the amending Act to commence upon the same day that the *Radiocommunications Taxes Collection Amendment Act 1994* commences.

**Clause 3 - Amendments**

This clause provides for the Principal Act to be amended as set out in the Schedule.

## **SCHEDULE**

### **Item 1 - Title**

The amendment made by item 1 provides for the long title of the Principal Act to be amended to take account of the new tax arrangements provided for by the other amendments proposed for sections 6 and 7 of the Principal Act.

### **Item 2 - Section 6 - Imposition of Tax**

Item 2 repeals section 6 of the Principal Act and substitutes a new section which will give applicants for transmitter licences different options in relation to the tax to be imposed on them in relation to the licences.

For licences that are issued for a period of up to 12 months, tax is imposed on the issue of the licence (new subsection 6(1)).

For licences that are issued for more than 12 months, tax is imposed on either the issue of the licence (for up-front payment of taxes for the whole of the period of the licence - new subsection 6(2)), or on the issue and anniversary of the issue of the licence (for payment by instalments, the first payment being due upon the issue of the licence and tax also being payable on each anniversary of that issue occurring during the term of the licence - new subsection 6(3)). The licensee must elect which is to be the preferred tax payment option in the application for the licence (new subsection 6(4)).

A licensee who elects to pay by anniversary instalments and later wishes to pay the balance of the taxes for the remaining term of the licence may notify the SMA of this change of mind, at least 21 days before the next anniversary, whereupon the balance of the taxes is imposed upon the next anniversary of the issue of the licence occurring during the remaining term of the licence (new subsection 6(5)).

Where a licensee defaults on payment of an anniversary payment of tax, and that default continues for a period of 60 days, tax for the balance of the term of the licence is imposed on the anniversary in relation to which the licensee is in default (new subsection 6(6)).

### **Item 3 - Subsection 7(1)**

The amendment made by item 3 is consequential to the amendment to section 6.

## **Radiocommunications (Receiver Licence Tax) Amendment Bill 1994**

### **Clause 1 - Short title etc.**

This clause provides for the citation of the *Radiocommunications (Receiver Licence Tax) Amendment Act 1994*.

This clause also provides that in the amending Act, "Principal Act" means the *Radiocommunications (Receiver Licence Tax) Act 1983*.

### **Clause 2 - Commencement**

This clause provides for the amending Act to commence upon the same day that the *Radiocommunications Taxes Collection Amendment Act 1994* commences.

### **Clause 3 - Amendments**

This clause provides for the Principal Act to be amended as set out in the Schedule.

## **SCHEDULE**

### **Item 1 - Title**

The amendment made by item 1 provides for the long title of the Principal Act to be amended to take account of the new tax arrangements provided for by the other amendments proposed for sections 6 and 7 of the Principal Act.

### **Item 2 - Section 6 - Imposition of tax**

The amendment made by item 2 repeals section 6 of the Principal Act and substitutes a new section which will give applicants for receiver licences different options in relation to the tax to be imposed on them in relation to the licences.

For licences that are issued for a period of up to 12 months, tax is imposed on the issue of the licence (new subsection 6(1)).

For licences that are issued for more than 12 months, tax is imposed on either the issue of the licence (for up-front payment of taxes for the whole of the period of the licence - new subsection 6(2)), or on the issue and anniversary of the issue of the licence (for payment by instalments, the first payment being due



upon the issue of the licence and tax also being payable on each anniversary of that issue occurring during the term of the licence - new subsection 6(3)). The licensee must elect which is to be the preferred tax payment option in the application for the licence (new subsection 6(4)).

A licensee who elects to pay by anniversary instalments and later wishes to pay the balance of the taxes for the remaining term of the licence may notify the SMA of this change of mind, at least 21 days before the anniversary, whereupon the balance of the taxes is imposed upon the next anniversary of the issue of the licence occurring during the remaining term of the licence (new subsection 6(5)).

Where a licensee defaults on payment of an anniversary payment of tax, and that default continues for a period of 60 days, tax for the balance of the term of the licence is imposed on the anniversary in relation to which the licensee is in default (new subsection 6(6)).

### **Item 3 - Subsection 7(1)**

The amendment made by item 3 is consequential to the amendment to section 6.















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