



Taxation Administration Amendment Regulations 2008 (No.)¹

Select Legislative Instrument 2008 No.

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Taxation Administration Act 1953*.

Dated 2008

Governor-General

By His Excellency's Command

[DRAFT ONLY – NOT FOR SIGNATURE]

Assistant Treasurer and Minister for Competition Policy and
Consumer Affairs

DRAFT ONLY

1 Name of Regulations

These Regulations are the *Taxation Administration Amendment Regulations 2008 (No.)*.

2 Commencement

These Regulations commence on the day after they are registered.

3 Amendment of *Taxation Administration Regulations 1976*

Schedule 1 amends the *Taxation Administration Regulations 1976*.

Schedule 1 Amendment

(regulation 3)

[1] After Part 6

insert

Part 7 Rulings

60 Application of Part 7

This Part applies in relation to an application for a private ruling, in accordance with Division 359 of Schedule 1 to the *Taxation Administration Act 1953*, made on or after the day this Part commences.

61 Private rulings — amount of charge for valuations and reviews of valuations

For subsection 359-40 (4) of Schedule 1 to the Act:

- (a) the charge for the valuer making a valuation is the amount that the Commissioner is required to pay the valuer for making the valuation; and
- (b) the charge for the valuer reviewing a valuation is the amount that the Commissioner is required to pay the valuer for reviewing the valuation.

Note 1 Under subsection 359-40 (4) of Schedule 1 to the Act, the Commissioner may charge an applicant an amount in accordance with the regulations. However, the Commissioner has the discretion not to charge the applicant for the making or review of the valuation.

The time period for making a private ruling is extended by item 4 in subsection 395-50 (2) of Schedule 1 to the Act if the Commissioner refers a valuation to a valuer. Item 4 would apply both to the Commissioner seeking an initial valuation from a valuer and the Commissioner seeking the services of a valuer to review a valuation supplied by the applicant.

Note 2 The charge for this service may be taxable under the *A New Tax System (Goods and Services Tax) Act 1999*. As a result, while the amount the Commissioner can charge for making or reviewing a valuation must be equal to the amount the Commissioner was required to pay for making or

reviewing the valuation, the Commissioner can also charge the applicant GST for the service.

62 Private rulings — payment of charge for valuations and reviews of valuations

- (1) The amount of the charge mentioned in regulation 61 is payable in accordance with this regulation.
- (2) The Commissioner:
 - (a) must estimate the amount of the charge that is likely to be payable for regulation 61; and
 - (b) may determine that:
 - (i) the valuation or review is likely to be done in parts or stages; and
 - (ii) the valuer is likely to require the Commissioner to pay the valuer in instalments for making or reviewing the valuation; and
 - (iii) the estimated amount of the charge may be paid in instalments relating to particular parts or stages of the valuation or review.
- (3) The Commissioner must give the applicant a notice that includes:
 - (a) an explanation of the effect of regulation 61; and
 - (b) the estimated amount of the charge; and
 - (c) either:
 - (i) a statement advising that the estimated amount of the charge must be paid (including the clearance of a payment made by cheque or money order) before the valuation or review is conducted; or
 - (ii) a statement:
 - (A) advising that the estimated amount of the charge can be paid in instalments relating to particular parts or stages of the valuation or review; and
 - (B) identifying the amount of the first instalment; and

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- (C) advising that each instalment must be paid (including the clearance of a payment made by cheque or money order) before the part or stage of the valuation or review to which the instalment relates is conducted.

Note Under section 359-40 of the Act, the charge is payable for the valuer making or reviewing a valuation. Therefore, the valuation or review will not be conducted until the estimated charge is paid.

If a valuation needs to be done in parts or stages (for example, if it is complex), a part or stage of the valuation will not be conducted until the relevant instalment is paid.

63 Private rulings — differences between estimated and actual charge for valuations and reviews of valuations

- (1) An estimate under paragraph 62 (2) (a) is not a guarantee by the Commissioner, or the Commonwealth, in relation to the amount of the charge for regulation 61.
- (2) If the amount of a charge worked out under regulation 61 is greater than the estimate under subregulation 62 (2), the Commissioner may recover the amount of the difference as a debt due to the Commonwealth.

Note The private ruling to which the valuation relates will not be finalised unless the total amount of the charge is paid.

If the amount of the charge is greater than the estimate, the Commissioner will arrange for a final invoice and collect the difference.

- (3) If the amount of a charge worked out under regulation 61 is less than the amount paid by the applicant in accordance with an estimate provided under subregulation 62 (2), the Commissioner must refund to the applicant an amount equal to the difference.
- (4) The Commissioner must pay the refund as soon as practicable.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.frli.gov.au.