

Contains deletions under FOI

Monitor - Tourist Refund Scheme "30 minute rule" - IOI-2015-500004

Complainant:

Street Address Case

Caller Phone Details

After Hours Phone

Business Phone

Mobile Phone

Fax

Email

Date of Birth

Organisation

Phone

Receipt Details

File Type:	Investigation-In-Confidence	Received Date:	30-Apr-15 3:06 PM
Case Type:	Non-AFP	Received By:	s 47F Geoffrey
		Registered Date:	30-Apr-15 3:06 PM
TimeSpent:	0(to date)	Registered By:	s 47F Geoffrey
Owned By:	s 47F Kirsten	Status:	Closed
Team:	Immigration		

Co Complainant

RoleHolder	Role	Comment
s 47F Kirsten	Last Action Assigned Officer	
DIBP - Department of Immigration and Border Protection	Agency	
	Recommendation	
	Recommendation	
s Elaine	IOI Agency Specialist	
Gibb, Doris	IOI Agency SAO	

Summary

s 47F

Our complainant was refused a Tourist Refund Scheme (TRS) application at the Sydney International Airport TRS desk. The department advised the refusal was because the customer presented at the desk 27 minutes prior to his flight's boarding time. DIBP exercises a policy it developed with aviation industry stakeholders that applies a "30 minute rule" to users of the TRS desk in Australian airports. The rule has been developed so that passengers cannot delay flights by being at the TRS desk instead of boarding their flight. TRS desk personnel are evidently instructed to refuse to process applications for refunds under the tourist refund scheme if they present at a TRS desk at or inside the 30 minute mark for boarding their flight. A New Tax System (Goods and Services Tax) Act 1999 and Regs does not have provision for such a scheme and appears at s186.5(c) make it mandatory for the Commissioner to pay applicants their tourist refunds when they satisfy the other conditions of the act.

Report Published 25 July 2016

2 recommendations:

One: process TRS claims in accordance with the law

Two: have drop box facility at all points of international departure.

DIBP accepted both and has:

- Commenced discussions with ATO to remove 30 minute rule
- Remove reference to rule from internet site within 3 months and from brochures with next print run.
- Commenced working with airlines and airports operators to identify options to lawfully process TRS to ensure no passenger is disadvantaged when making a claim while mitigating any adverse effects on airport operations and flight times.
- Is considering use of drop box if all affected parties are happy with this - may need to talk to Treasury if changes to regulations are involved.

DIBP's progress on the recommendations was provided in October 2016, May 2017 and October 2017.

On 27 October 2017 DIBP provided a recommendation progress report which advised that changes to regulations had been

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drafted to allow wider use of drop boxes and the planned date of effect was December 2017.

ISSUES

Issues

Cause

Outcome

Actions							
Action	Contact	Assign To	Due Date	Completed By	Completed	Status	Time
Case Ownership Changed	/	s 47F Geoffrey	30-Apr-15 3:24 PM	s 47F Geoffrey	30-Apr-15 3:24 PM		
Assigned to s 47F Christopher' by s 47F Geoffrey'							
Case Ownership Changed	/	s 47F Christopher	11-May-15 10:53 AM	s 47F Christopher	11-May-15 10:53 AM		
Reassigned from s 47F Christopher' to s 47F Nathan' by s 47F Christopher'							
IOI Seek Approval	/	s 47F Melita	20-Jul-15 2:16 PM	s 47F Monda	16-Jul-15 2:16 PM	IOI Approved	0
IOI Approved	/	s 47F Nathan	20-Jul-15 2:16 PM	s 47F Monda	16-Jul-15 2:16 PM		0
Briefing	/	s 47F Nathan	10-Sep-15 3:33 PM	s 47F Nathan	10-Sep-15 8:58 AM		0
depending on the response, a further question that might be asked is: 'what arrangements outside the standard processing arrangements exist for those people who might be broadly described as VIPs, eg, sports, entertainment personalities, diplomats and other high profile people who are not subjected to the normal boarding processes'.							
Case Ownership Changed	/	s 47F Nathan	29-Aug-16 8:54 AM	s 47F Nathan	29-Aug-16 8:54 AM		
Reassigned from s 47F Nathan' to s 47F Susan' by s 47F Nathan'							
Briefing	/	s 47F Susan	30-Aug-16 2:57 PM	s 47F Susan	27-Sep-16 4:02 PM		0

Summary of status:

Report Published 25 July 2016

2 recommendations:

One: process TRS claims in accordance with the law

Two: have drop box facility at all points of international departure.

DIBP accepted both and has:

- Commenced discussions with ATO to remove 30 minute rule
- Remove reference to rule from internet site within 3 months and from brochures with next print run.
- Commenced working with airlines and airports operators to identify options to lawfully process TRS to ensure no passenger is disadvantaged when making a claim while mitigating any adverse effects on airport operations and flight times.
- Is considering use of drop box if all affected parties are happy with this - may need to talk to Treasury if changes to regulations are involved.

I propose to follow up with the DIBP about its progress with each of the recommendations in late October. Nathan agrees with this approach.

Await Agency Response	/	s 47F Susan	25-Oct-16 4:02 PM	s 47F Susan	13-Oct-16 10:31 AM	Response received	0
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I have sent a follow up email to DIBP to check on implementation of recs.

response is due by 25 October.

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Provided 12/10/16

Analyse incoming / [redacted] Susan 14-Oct-16 10:31 AM [redacted] Susan 13-Oct-16 11:36 AM Provided at request 0

The DIBP is taking steps to implement recommendations. It as:

- advised regional commands about he CO's finding that it is unlawful for ABF to refuse to process claims less than 30 minutes before boarding a plane (airline reps have been advised they can continue to request passengers leave queue or be at risk of missing their flight).

- at end of October commencing PoC trialling using their TRS drop box form at their boarding gate.

- removing reference to 30 minute rule from their website.

- the ATO has asked treasury to prioritise regulatory changes allowing use of drop box at all international points of departure.

It appears that progress is being made but further follow-up may be necessary.

Susan

Briefing / [redacted] Susan 14-Oct-16 11:36 AM [redacted] Susan 10-Apr-17 4:22 PM 0

(Waiting for Chris to confirm we have not heard since October - then will follow up).

Hello Chris,

Please note that the DIBP is taking a number of steps to implement the TRS recommendations. In particular the DIBP:

has advised regional commands about he CO's finding that it is unlawful for ABF to refuse to process claims less than 30 minutes before boarding a plane (airline reps have been advised they can continue to request passengers leave queue or be at risk of missing their flight).

is commencing a proof of concept to the end of October to trial the lodgement of TRS forms at boarding gates at Sydney Airport instead of at the TRS facility

is removing reference to 30 minute rule from their website.

Also, the ATO has asked treasury to prioritise regulatory changes allowing use of drop boxes at all international points of departure.

Appropriate steps are being taken but further follow-up may be appropriate early in the new year.

Kind regards

Susan

Susan

Thanks for the update. AS you suggested, one more follow up in Januray 2017 and we should be able to close this IOI.

Chris 23/12/16

Case Ownership / [redacted] Elaine 28-Apr-17 3:28 PM [redacted] Elaine 28-Apr-17 3:28 PM

Reassigned from [redacted] Susan to [redacted] Elaine by [redacted] Elaine

Research / [redacted] Elaine 3-May-17 10:03 AM [redacted] Elaine 16-May-17 9:50 AM 0

<https://www.border.gov.au/Trav/Ente/Tour/TRS-applications> - smart phone app to start applications

<https://www.border.gov.au/Trav/Ente/Tour/Are-you-a-traveller>

Need to seek an update on the 'proof of concept'. Awaiting DIBP response to own motions due on 18 May 2017.

IOI Status Summary / [redacted] Elaine 6-Mar-20 7:54 AM [redacted] Elaine 26-May-17 7:59 AM 0

Last Updated: Progress update provided on 12/10/2016:

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The Department has advised all Regional Commands that the Commonwealth Ombudsman found it unlawful for ABF to refuse to process claims less than 30 minutes before a passenger's flight departure and the lawful options to process TRS claims. Airline representatives have been advised that they can continue to request passengers leave the queue or be at risk of missing their flight.

The Department of Immigration and Border Protection (the Department) is commencing a Proof of Concept (PoC) at Sydney airport at the end of October to allow passengers from selected high TRS usage flights to lodge their TRS drop box form at their boarding gate rather than the TRS facility. This will help ensure that flights are not delayed due to passengers wishing to make a claim. The PoC has received indicative support from the Airport Corporation and the participating airlines.

The Department is in the process of changing its website to remove reference to the 30 minute rule. The new Internet information is planned for up-load in the week commencing 10 October 2016.

The Department met with the Australian Taxation Office (ATO) on 20th September 2016. Discussions included how to best secure approval from the Treasury to implement a Regulation change to allow for the permanent deployment of the TRS drop box. The ATO emailed the Treasury on 4th October requesting they prioritise the Regulation changes. A response from the Treasury is due by the end of October.

Status Summary:

On 18 May 2017, DIBP provided its Recommendation Progress Report:

The Department's website has been updated and no longer refers to the 30 minute rule. For further information on the tourist refund scheme, including the TRS app that can be used to enter information required to lodge a TRS claim, please see <http://www.border.gov.au/Trav/Ente/Tour/Are-you-a-traveller>. The Department at this time is not pursuing the Proof of Concept and is awaiting the regulatory change that will support permanent deployment of a drop box as outlined below.

Regulation changes to allow for the permanent deployment of the TRS DropBox have been prioritised and it is anticipated that the relevant regulations will take effect in November or December 2017.

Follow up required:

Yes - monitor Regulation changes - due Nov/Dec 2017.

Case Ownership	/	s Elaine	16-Jun-17	s Elaine	16-Jun-17	
Changed			2:00 PM		2:00 PM	
Reassigned from	s Elaine'	s 47F Andrew'	by s Elaine'			
Case Ownership	/	s 47F Anne-Marie	14-Nov-17	s 47F Anne-Marie	14-Nov-17	
Changed			11:22 AM		11:22 AM	
Reassigned from	s 47F Andrew'	s 47F Kirsten'	by s 47F Anne-Marie'			
Briefing	/	s 47F Kirsten	15-Nov-17	s 47F Kirsten	20-Nov-17	0
			11:18 AM		3:21 PM	

Noted. Will follow up in January 2018 following advice from DIBP in Oct 17 recommendation tracking that regulations to allow wider use of drop boxes were planned to come into effect in December 17.

KS 20/11/17

Allocated to Kirsten by Elaine to follow up the Regulation changes in respect of dropboxes.

App exists assists in inputting data, to get to front to queue, but still need to queue, and the App feedback is mixed as to whether it crashes losing the data.

AMT

14/11/17

Research	/	s 47F Kirsten	15-Jan-18	s 47F Kirsten	16-Jan-18	0
			4:12 PM		4:29 PM	

The relevant sections of the GST legislation as amended on 16 November 2017

Subdivision 168-3A-Export by resident of an external Territory as unaccompanied baggage

168-5.10A Export of goods to an external Territory

Contains deletions under FOI

For paragraph 168-5(1A)(e) of the Act, this Subdivision sets out the circumstances in which an acquirer must export goods to an external Territory, as unaccompanied baggage, for the purposes of being paid a refund of GST.

168-5.10B Time of export

The goods must be exported within 60 days after the day on which they were acquired.

168-5.10C Verification of export

(1) The acquirer must present to an officer of Customs, on request, at a TRS verification facility:

(a) the tax invoice relating to the goods; and

(b) documentary evidence that the acquirer is an individual to whom paragraph 168-5(1A)(c) of the Act applies; and

(c) documentary evidence that:

(i) the goods have been exported to an external Territory; or

(ii) arrangements have been made for the exportation of the goods to an external Territory within 60 days after the day on which the goods were acquired.

(2) However, if a TRS verification facility enables an acquirer to lodge a claim for payment, the acquirer may instead:

(a) complete a claim for payment; and

(b) include the following documents with the claim:

(i) the acquirer's tax invoice;

(ii) documentary evidence referred to in paragraph (1)(b);

(iii) documentary evidence referred to in subparagraph (1)(c)(i) or (ii); and

(c) lodge the claim for payment at the TRS verification facility.

Note: A TRS verification facility may enable an acquirer to lodge a claim for payment, for example, by placing the claim in a drop box facility.

(2A) The acquirer must comply with subregulation (1) or (2):

(a) if the acquirer is leaving the indirect tax zone on an aircraft-at least 30 minutes before the aircraft's scheduled departure time; or

(b) if the acquirer is leaving the indirect tax zone on a ship-at least 60 minutes before the ship's scheduled departure time.

Note: The scheduled departure time of an aircraft or ship may change, for example, because of a delay.

(3) If the acquirer presents the evidence mentioned in subparagraph (1)(c)(ii), documentary evidence that the goods have been exported to an external Territory as described in that subparagraph must be given to the Comptroller-General of Customs within 90 days after the day on which the goods were acquired.

Subdivision 168-4-Proportion of amount of GST for payment in cash

168-5.11 Cash payment

(1) For paragraphs 168-5(1)(e) and (1A)(g) of the Act, this regulation applies if:

(a) an amount of GST on a taxable supply is to be paid to an acquirer in cash; and

(b) the amount of GST is not an exact multiple of 5 cents.

(2) If the amount of GST (the base amount) ends with an amount that is more than an exact multiple of 5 cents but less than 2.5 cents, or more than an exact multiple of 5 cents but less than 7.5 cents:

Contains deletions under FOI

- (a) the base amount is to be rounded down to the nearest exact multiple of 5 cents; and
 - (b) the result is the proportion of the base amount that is to be paid to the acquirer.
- (3) If the amount of GST (the base amount) ends with an amount that is 2.5 cents or more, but less than an exact multiple of 5 cents, or 7.5 cents or more, but less than an exact multiple of 5 cents:

- (a) the base amount is to be rounded up to the nearest exact multiple of 5 cents; and
- (b) the result is the proportion of the base amount that is to be paid to the acquirer.

Subdivision 168-5-Documentation relating to entitlement to payment

168-5.12 Payment authority

- (1) This regulation applies if:
- (a) an acquirer complies with subregulations 168-5.10(1) and (3) or subregulations 168-5.10C(1) and (2A) at the request of an officer of Customs; and
 - (b) the officer is satisfied that the acquirer is entitled to be paid an amount under section 168-5 of the Act.
- (2) The officer must give the acquirer a payment authority that includes:
- (a) information identifying the acquirer; and
 - (b) the amount to which the acquirer is entitled.

Subdivision 168-6-Period and manner of payment

168-5.14 Processing payment authority given to officer of Customs at airport

- (1) For subsection 168-5(2) of the Act, this regulation applies if:
- (a) an acquirer gives a payment authority to an officer of Customs at a TRS verification facility:
 - (i) that is located at an airport; and
 - (ii) at which facilities exist for making cash payments; and
 - (b) the amount to be paid to the acquirer (including any amount payable to the acquirer, in relation to the acquisition, under section 25-5 of the A New Tax System (Wine Equalisation Tax) Act 1999) is \$200 or less.

Note: Facilities for making cash payments to acquirers will only be available at some airports, and will not be available at seaports.

- (2) If it is practicable to pay cash to the acquirer, the amount must be paid to the acquirer, in Australian currency, before the acquirer leaves the indirect tax zone.
- (3) If it is not practicable to pay cash to the acquirer, an officer of Customs must make arrangements for the acquirer to lodge the payment authority at a TRS verification facility before leaving the indirect tax zone.

Examples:

- 1 A shortage of cash at the TRS verification facility.
- 2 Passenger congestion that would make it unreasonable to pay cash to each acquirer within the time available.

168-5.15 Processing payment authority lodged at a TRS verification facility

- (1) For subsection 168-5(2) of the Act, this regulation applies if an acquirer:
- (a) lodges a payment authority at a TRS verification facility when the acquirer is leaving the indirect tax zone; and

Subdivision 168-5-Documentation relating to entitlement to payment

Contains deletions under FOI

168-5.12 Payment authority

(1) This regulation applies if:

(a) an acquirer complies with subregulations 168-5.10(1) and (3) or subregulations 168-5.10C(1) and (2A) at the request of an officer of Customs; and

(b) the officer is satisfied that the acquirer is entitled to be paid an amount under section 168-5 of the Act.

(2) The officer must give the acquirer a payment authority that includes:

(a) information identifying the acquirer; and

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Subdivision 168-6-Period and manner of payment

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(i) that is located at an airport; and

(ii) at which facilities exist for making cash payments; and

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(2) If it is practicable to pay cash to the acquirer, the amount must be paid to the acquirer, in Australian currency, before the acquirer leaves the indirect tax zone.

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Examples:

1 A shortage of cash at the TRS verification facility.

2 Passenger congestion that would make it unreasonable to pay cash to each acquirer within the time available.

168-5.15 Processing payment authority lodged at a TRS verification facility

(1) For subsection 168-5(2) of the Act, this regulation applies if an acquirer:

(a) lodges a payment authority at a TRS verification facility when the acquirer is leaving the indirect tax zone; and

42 A New Tax System (Goods and Services Tax) Regulations 1999 Compilation No. 37 Compilation date: 4/12/17
Registered: 8/12/17

(3) The payment must be made within 60 days after whichever is the later of the following:

(a) the day the Comptroller-General of Customs receives the claim;

(b) if the Comptroller-General of Customs asks the acquirer to give information relating to the claim for payment-the day the Comptroller-General receives the information.

Follow Up

/

s 47F
Kirsten

15-Jan-18
8:00 AM

s 47F

Kirsten 16-Jan-18
4:34 PM

0

On 16 November 2017 the Treasury Laws Amendment (2017 Measures No. 2) Regulations 2017 came into effect.

These regulations removed any legal impediment to the permanent deployment of drop boxes at TRS verification facilities. They also created a legal basis for the '30 minute rule' as the regulations now require that an acquirer must

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present their claim to an officer or lodge it (for example in a drop box) at least 30 minutes before an aircraft's scheduled departure and 60 minutes before a ship's scheduled departure.

The amended legislation is under the outgoing documents tab.

KS 16/1/18

On 27 October 2017 DIBP provided a recommendation progress report which advised that changes to regulations had been drafted to allow wider use of drop boxes and the planned date of effect was December 2017.

Follow up in January 2018 to assess whether changes have come into effect.

KS 20.11.17

Andrew,

In November/December 2017, can you please conduct research regarding the permanent deployment of drop boxes. Regulation changes are required to facilitate these and DIBP anticipate that they will come into effect in Nov/Dec 2017 - see the Recommendation Tracking spreadsheet under the Documents tab (incoming docs) for more details.

Thanks,

exl, 16 June 2017

IOI Outcome

/

s 47F
Kirsten

25-Jan-18
4:34 PM

s 47F Kirsten 17-Jan-18
9:35 AM

0

Noted and agreed.

Thanks

LK 16/01/2018

In July 2016 our Office published an own motion investigation on the application of the '30 minute rule' within the Tourist Refund Scheme.

We recommended that:

- As an interim measure the department takes all reasonable steps to ensure that travellers who wish to claim a TRS refund are able to do so in a way that is consistent with the law.
- The department considers the permanent use of the drop box facility at TRS facilities at all international points of departure, and takes all necessary steps to ensure the appropriate regulations are in place to give effect to this arrangement.

The department accepted these recommendations and advised us that it has commenced discussions with ATO to remove 30 minute rule. The department advised that:

- It will remove reference to rule from its internet site within 3 months and from brochures with next print run
- It has commenced working with airlines and airport operators to identify options to lawfully process TRS to ensure no passenger is disadvantaged when making a claim while mitigating any adverse effects on airport operations and flight times
- It is considering the use of drop box facilities at all points of international departure.

The department subsequently advised us that it would be necessary to amend the regulations in order to permanently deploy drop boxes at TRS verification facilities.

On 16 November 2017 the Treasury Laws Amendment (2017 Measures No. 2) Regulations 2017 came into effect.

These regulations removed any legal impediment to the permanent deployment of drop boxes at TRS verification

Contains deletions under FOI

facilities. They also created a legal basis for the '30 minute rule' as the regulations now require that an acquirer must present their claim to an officer or lodge it (for example in a drop box) at least 30 minutes before an aircraft's scheduled departure and 60 minutes before a ship's scheduled departure. The department's website now reflects the reinstatement of the '30 minute rule'.

The amended legislation is under the outgoing documents tab.

As the recommendations from the Own Motion have now been fully implemented, I am now proposing to close this IOI.

KS 16/1/18

Case Closure

/

s 47F

Kirsten

18-Jan-18

9:35 AM

s 47F

Kirsten 17-Jan-18

9:35 AM

0

Officer

Office: Canberra

External References

Filename

20150521 EMail 01.msg

20150819 EMail 01.msg

20150921 EMail 01.msg

20150921 EMail 02.msg

20150930 EMail 01.msg

TRS own motion - final draft with agency comments#2.obr

20160927 EMail 01.msg

20161005 EMail 01.msg

20161013 EMail 01.msg

20170616 EMail 01.msg

20171114 EMail 01.msg

Treasury Laws Amendment (2017 Measures No. 2) Regulations 2017.pdf

A New Tax System (Goods and Services Tax) Amended.pdf

Comments

1. Contact details for TRS queries

1. s7 request for information on operation of TRS

2. DIBP response

3. Geoff B's response

2. final report

3. follow-up email to DIBP

DIBP response to follow-up questions

DIBP - recommendation tracking report, June 2017

DIBP - recommendation tracking report, October 2017

4. Amendment to regulations

5. Amended Regulations

Cross References

Case

Comments

2015-101675

Additional Agency

Section ADD_AGENCY either doesnt exist or has no data or detail area properly defined

Closure Details

Closed On:

17-Jan-18 9:35 AM

Closed By:

s 47F

Kirsten

Security Level

50

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Gregory Parkhurst

From: s 47E
Sent: Thursday, 21 May 2015 3:02 PM
To: Nathan s 47F
Cc: Geoffrey s 47F; AHRC OMB
Subject: RE: Ombudsman's Investigation Finalisation ? s 47F our ref
2015-509615 [SEC=UNCLASSIFIED]

UNCLASSIFIED

Dear Nathan,

As requested by Geoffrey below, please see the contact details for the appropriate person in the ACBPS to discuss the issues raised in the complaint from s 47F.

s 47F Manager, Tourist Refund Office (TRO), Australian Customs and Border Protection Service, Ph: s 47F

Regards,

s 47F

Ombudsman, Human Rights and Privacy Co-ordination (OHR&PC) Section
External Accountability Task Force
Integrity, Security and Assurance Division | Immigration and Border Protection Portfolio
Email: s 47E
Telephone: s 47E

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Gregory Parkhurst

From: s 47E [redacted] on behalf of s 47E [redacted]
Sent: Friday, 18 September 2015 10:37 AM
To: Nathan s 47F [redacted]
Cc: s 47E [redacted]
Subject: Departmental response to s7 request - preliminary inquiry on Tourist Refund Scheme -
DIBP ref: OHR 15-00314 [DLM=Sensitive]
Attachments: Departmental response.pdf; TRS Tax Back for Travellers.pdf

Sensitive

Dear Nathan,

Please see attached the Department's response to the Ombudsman's Office preliminary inquiry on the Tourist Refund Scheme.

I apologise for the delay in providing a response.

If you need any further information please email s 47E [redacted] and cc
s 47E [redacted].

Kind regards,

s 47F [redacted]
External Accountability Section
Risk and Assurance Branch | Integrity, Security and Assurance Division
Corporate Group
Department of Immigration and Border Protection
P: s 47E [redacted] E: s 47E [redacted]

Sensitive



Please find below the Department's response to Ombudsman's preliminary inquiry on the Tourist Refund Scheme.

Background information provided by the Ombudsman's Office:

This office has received a number of complaints relating to the operation of this scheme, in particular as it relates to people who are unable to have their refund request processed before the 30 minute cut-off time before the scheduled departure of their flight.

Ombudsman's Questions

1. Is the department confident that the administrative arrangements supporting the 30 minute cut-off time are supported by legislation?

- a. If so, please provide evidence of relevant legal advice to this effect if it is available.

While the 30 minute cut-off time is not supported by legislation, this administrative arrangement is widely publicised to travellers. Attached is the most recent documentation from the Department outlining the application of the 30 minute rule. The 30 minute rule was first introduced in 2000 in consultation with aviation industry stakeholders to ensure that Tourist Refund Scheme (TRS) claimants did not cause delays to the on-time departure of an aircraft. The attached "TRS Tax back for Travellers" document clearly articulates the requirement. There are also very few customer complaints about this issue in relation to the volume of claims.

In 2013, the Department conducted a one month trial of a 20 minute cut-off time however, this did little to address the issue of passengers not leaving sufficient time to lodge their TRS claims. It should be noted that changes to, or removal of, the 30 minute rule would not be supported by the industry stakeholders as it will impact the on-time departure of their aircraft.

2. Is there a 'drop-box' facility at points of departure that allow people to lodge their claim for a refund if they cannot meet the 30 minute cut-off deadline?

- a. If so, please advise how this operates, including location of drop-boxes, signage, hours of availability etc
b. when claims are processed, and
c. if people are permitted to use this facility even if they have more than 30 minutes before their departure but for whatever reason do not want to queue to have their refund processed at the time.

The 'Drop Box' is not a standard operating procedure and is only deployed during peak processing periods. To make a TRS claim, a passenger must present their invoices, goods and travel information to an officer at the TRS counter when leaving Australia. If a passenger presents these documents to the satisfaction of the officer, then a payment authority will be issued under Regulation 168-5.12 of the *A new Tax System (Goods and Services Tax) Regulations 1999* (the Regulations).

In exceptional circumstances where an officer cannot issue a payment authority, the TRS officer must make arrangements for the passenger to lodge a claim for payment, including their invoices and lodge the claim at a TRS verification facility before leaving Australia. Exceptional circumstances include passenger congestion that would make it unreasonable to verify each acquirer's claim within the time available. Exceptional circumstances are defined in Regulation 168-5.13:

If an officer of Customs is unable to give an acquirer a payment authority, because of exceptional circumstances that make it impracticable for the officer to verify the acquirer's entitlement, the officer must make arrangements for the acquirer:

- (a) to complete a claim for payment; and*
- (b) to include with the claim the acquirer's tax invoice; and*
- (c) to lodge the claim at a TRS verification facility before leaving the indirect tax zone.*

Examples of exceptional circumstances:

- 1 A power outage at a TRS verification facility, making it impossible to verify details by computer.*
- 2 Passenger congestion that would make it unreasonable to verify each acquirer's claim within the time available.*

In times when drop boxes are available, it is possible for a passenger to complete a drop box form within the 30 minute time period before the schedule departure time of their aircraft. Whether or not the claim is approved would depend on all the TRS eligibility criteria being met.

The TRS drop box only operates in Sydney, Melbourne, Brisbane and Perth airports as it is not considered that the other airports meet the 'exceptional circumstances' requirement as set out by the Regulations. The location of the drop boxes is dictated by the available space in the TRS claim area in the respective airports. Generally the location is adjacent to the TRS facility. However, as Sydney Airport is currently undertaking significant refurbishment of the departures concourse, the location of the drop box can sometimes vary.

The approval to deploy the drop box can only be authorised by the airport Duty Manager once queues become lengthy in the TRS facility. They are able to monitor the queues via CCTV or the supervising officer can request its deployment if they become aware of queues increasing. The drop box deployment is supported by a 2 metre pull up sign. These pull up signs are being redesigned due to some policy changes affecting the wording. The new wording advises that claims will be processed as soon as possible and refund will be paid within 60 days, if approved.

The process followed when the drop box is deployed is;

- Officers disseminate drop box forms to passengers.
- Officers sight the goods if required.
- Officers explain that travellers are required to complete the form in English and then deposit the original copy and their tax invoices into the envelope provided and place it in the dedicated box.

Drop box forms must be lodged at the TRS facility before leaving Australia, they cannot be posted to the Department. There is a carbon copy of the form which the passenger retains. Claims are processed as soon as resources permit, however payments are almost always made within 60 days of the passenger lodging their claim. The passenger's tax invoices along with a payment authority detailing the breakdown of the refund, or the status of their claim, are posted to the passenger's nominated home address. Passengers have the option to either queue to have their claim processed by an officer or, if the drop box is deployed, complete a form and leave it for processing at a later time.

3. The department website states on its 'are you a traveller' page 'If you are leaving from another airport or seaport, contact the Department to find out how to make a claim.' A recent complainant to this office provided a copy of a letter from Customs in response to his complaint to Customs that states 'The TRS is only available at the time and place of departure and unfortunately cannot be processed after the departure date.' It would seem that there might be a conflict between these two pieces of information. Presumably if a person is departing from another airport or seaport then there are other arrangements in place for the processing of TRS claims and this may mean that claims are, or can be, processed after a departure date.

Please advise:

- a. What are the arrangements for claiming TRS from another airport or seaport (other than those listed on the 'are you a traveller' page of the department's website)?
- b. Does this conflict with Customs' advice that claims cannot be processed after the departure date?

Regulation 168-5.10 (3) of the Regulations requires a passenger to lodge a claim at a TRS verification facility when they are leaving Australia. A passenger cannot lodge a claim once they have departed Australia. If a passenger is departing from an airport or seaport other than those listed on the Department's internet website, we ask them to contact the Department so we can advise them of the requirements to make a successful claim.

For example, a passenger flying domestically from Canberra to Sydney and then on to London would be advised that they either have to carry all their TRS goods as hand luggage, or if their goods are oversized, check their luggage in as far as Sydney, collect their bags, proceed to the Department's Client Service office at the International Terminal to have their goods sighted and their tax invoice notated. After this they can then check in their luggage, proceed through passport control and lodge their TRS claim. If a passenger is unable to undertake this process then they do not meet legislative requirements for a refund and their claim cannot be approved.

In the case of seaport departures, the cruise ship operators generally contact the Department's Regional Maritime Operations area and advise them they have a cruise departing from a remote port and require TRS facilities at the last port of departure. It should be noted that TRS claims for sea departures must always be made at the ship's last port of departure from Australia which often is not the port at which the passenger embarked. This is articulated on the Departmental website and can be found at <http://www.border.gov.au/Trav/Ente/Tour/Are-you-a-traveller>.

4. If data is available, please advise:

- a. how many TRS claims were received in the financial year 2014/15

In the financial year 2014/15 there were 767,085 TRS claims made. Please note that this figure is under embargo until the publication of the Department's 2014/15 Annual Report.

- b. how many TRS claims were rejected in the same period for being lodged outside the stipulated period

As passengers are required to go directly to their aircraft to avoid causing delays to on time departure, the Department does not capture statistics as to how many claims were rejected for being within 30 minutes of the scheduled departure time of the aircraft.

- c. how many complaints were received about the operation of the TRS in the same period

In the financial year 2014/15 there were 301 complaints received about the operation of TRS.

d. how many complainants subsequently had their claim processed after their complaint was dealt with

It is difficult to ascertain how many complainants have subsequently had their claim approved after lodging a complaint. An estimate would be approximately 40% may receive a favourable response. However, where investigations have found that the Department did not deploy sufficient resources and the drop box was not available, or where the passenger made every effort to make a TRS claim but factors were not in their favour, we are likely to approve the passenger's claim if they had met all other eligibility requirements such as;

- having purchased the goods within 60 days of departure;
- meeting the \$300 threshold; and
- providing a valid tax invoice.

5. Any further information that may assist our office in its understanding of this issue.

The Department acknowledges that keeping up with the demand for the Tourist Refund Scheme is challenging. We are proactively engaging with major TRS stakeholders such as the Treasury and the Australian Taxation Office to seek agreement on reform. The TRS legislation has had minimal changes since its introduction in 2000 and whilst the Department has comprehensive policy documentation supporting the administration of the Scheme, such as the 30 minute rule, this is not reflected in the TRS legislation.

The Department advises passengers that to ensure they are able to lodge a TRS claim they should aim to be at the TRS facility at least 90 minutes prior to the scheduled departure of their aircraft. As the TRS is the last event in the departure process, passengers have often experienced delays at check in or have chosen to spend time farewelling family and friends and arrive at the TRS with limited time before their flight departs. Where the Department is found to be at fault or consider that the passenger has left sufficient time for their claim to be processed, we consider payment of their claim retrospectively.

A large number of complaints to the Department are from Australian residents who lodge a complaint upon their return to Australia about their inability to lodge a TRS claim on departure, usually due to excessive queuing. There is significant risk that Australian travellers have reimported the products claimed and the Department is in no position to verify this. The often extended travel periods of Australian travellers combined with limited CCTV storage facilities mean it is extremely difficult to verify these claims. The Department is therefore unable to confirm that the passenger in question has met all requirements for a refund of GST as required by the legislation. There is no leeway in many of these requirements.

The administration of the Scheme in Sydney is made more difficult by the less than ideal accommodation at Sydney International Airport, which does not allow the Department to better utilise queue management for its mobile and web based applications which allows for expedited TRS claim processing. This is being addressed during a major redevelopment of Sydney airport.

DISCLOSED UNDER FOI

Frequently asked questions

Can I purchase goods from any retailer?

Yes. You can purchase goods from any retailer providing they are registered for GST in Australia. This means you can buy them from overseas but the company must have an ABN. Note: The shipping charges are exempt from your refund.

Can I purchase goods from several retailers?

Yes. There is no limit to the number of retailers you can purchase goods from, provided the purchase(s) made from each individual retailer (ABN) totals \$300 or more (GST inclusive).

Can I purchase goods totalling \$300 (GST inclusive) from the same retailer over several days within the 60 day period?

Yes. As long as all other TRS eligibility requirements are met.

Can I use the goods before departing Australia?

Yes. However you cannot consume or partly consume goods such as wine, chocolate or perfume.

Can I claim a refund on goods purchased by someone else?

No. The person making the TRS claim MUST have purchased the goods.

Can I make a TRS claim if I am travelling as a passenger on a military aircraft or ship?

Yes. Contact the Tourist Refund Office for more information.

Can I put my refund on someone else's credit card or bank account?

Yes. But ensure you have the correct banking details to avoid the bank rejecting the payment.

What is NOT eligible for a refund?

You cannot claim a refund on:

GST-free goods

Some goods such as certain health products are GST-free and therefore a refund of GST cannot be claimed.

Services

Services such as accommodation, car rental, tours and labour charges. The TRS only refunds GST on goods that are exported. As services are used in Australia before departure they are not eligible for a refund.

Alcoholic Beverages, tobacco and tobacco products
These goods can be purchased duty and GST-free from duty-free stores.

Consumed goods

Goods that have been consumed or partly consumed in Australia such as wine, chocolate or perfume.

Dangerous goods

Goods that cannot be taken with you as hand or checked-in baggage, such as dangerous goods which are prohibited from being loaded onto an aircraft or ship.

Where are the TRS facilities located?

TRS facilities are located after you go through outward immigration processing at International airports and major seaports. Please contact your cruise company to see whether TRS will be available. Note: TRS claims on cruise ships MUST be made at the last port of departure from Australia. This must be considered when calculating the 60 days period.

Will the TRS facility be open for early morning and/or late evening flight departures?

Yes. The TRS facility will be open for all flights departing from Australian international airports.

What if I cannot produce my goods at the TRS facility?

Officers at the TRS facility need to be satisfied that the goods are being taken out of Australia either as hand baggage or checked-in baggage.

Failure to produce your goods to an officer at the TRS facility on request, or evidence that Immigration and Border Protection has sighted your goods prior to check-in at your port of departure from Australia will result in your claim being refused.

Could aviation security measures affect my TRS claim?

Yes, restrictions apply to the amount of liquids, aerosols and gels (LAGs) that can be carried on international flights as hand baggage. Contact the Department of Immigration and Border Protection for more information.

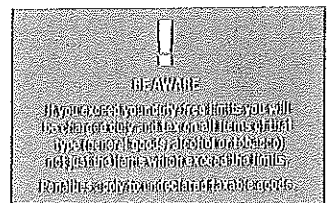
Things you need to know about TRS

There are limits on the quantity of goods you are allowed to bring into Australia duty and/or tax-free as part of your passenger duty-free concession.

This includes goods purchased:

- overseas
- in Australia duty or tax-free before departure
- in Australia for which a TRS refund has been claimed
- from an inwards duty-free shop on arrival in Australia.

More information about duty-free concessions is contained in the brochure *Guide for Travellers—Know Before You Go* available from the Department of Immigration and Border Protection's website.



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Quick Guide

It is recommended that you arrive at the TRS facility at least 90 minutes prior to the departure of your aircraft to ensure you leave sufficient time to successfully lodge your TRS claim.

Claims at airports may not be able to be processed within 30 minutes of your aircraft's scheduled departure time.

Claims at seaports can be made no earlier than four hours and may not be able to be processed within 60 minutes of your ship's scheduled departure time.

How do I make a claim?

On the day of departure you must:

1. Present the following items to an officer at the TRS facility:
 - passport;
 - International boarding pass;
 - original tax invoice(s); and
 - the goods.
2. Choose a refund payment option:
 - credit/charge card (Amex, Diners, JCB, MasterCard, Union Pay, Visa)
 - Australian bank account (you will need your BSB and account number for this option)
 - cheque.

Payments will be processed within 60 days of your claim being lodged with at the TRS facility.

TRS App

The Department of Immigration and Border Protection mobile and web TRS applications (apps) allow you to enter the information required to lodge a TRS claim. Using the apps you can enter:

- your travel details;
- details of the goods for you are claiming a refund of Goods and Services Tax (GST) and Wine Equalisation Tax (WET); and
- how you prefer to receive your TRS refund.

The information will be stored in a QR code. This QR code is your TRS claim code. You must present your TRS claim code to an officer at the TRS counter on your departure from Australia.

If you successfully enter your claim details using the web app, you may be able to use a dedicated queue at the TRS facility and your claim should be processed faster.

Contacting the Department of Immigration and Border Protection

Phone: within Australia - 131 881

Internet: www.border.gov.au

Complaints and Compliments

Phone: within Australia - 133 177

Email: complaints@border.gov.au

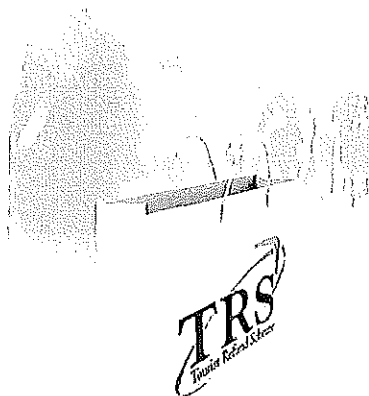
This information is correct at the time of printing. Current information can be obtained by contacting Immigration and Border Protection.

July 2015



An Australian Government Initiative

Tax back for Travellers



What is the Tourist Refund Scheme?

The Tourist Refund Scheme (TRS) allows Australian and overseas passengers to claim back the Goods and Services Tax (GST) and the Wine Equalisation Tax (WET) on goods purchased in Australia and taken with them as accompanied baggage overseas on the same plane that you are travelling on.

Operating air and sea crew are not eligible to claim refunds under the TRS.

What are the conditions of the scheme?

To be eligible for a refund under the TRS you must:

- Spend a minimum of \$300 (GST inclusive) with the one retailer with the same Australian Business Number (ABN).
- Purchase the goods within 30 days before departing Australia.
- Tax invoices with a value of \$1,000 or more must show the identity or ABN of the purchaser. If not this part of your TRS claim will be rejected and you will be required to return to the retailer and obtain a new tax invoice.
- Carry the goods with you as hand baggage, unless they are oversized or required to be checked-in by the airline.

If you are unable to present your goods on request, or provide evidence that Immigration and Border Protection has sighted your goods at your port of departure from Australia your claim WILL be rejected.

Note: Regular examinations will be conducted to ensure that goods that are checked in have been exported. Where non-compliance of Tourist Refund Scheme occurs, penalties and prosecution action may apply.

Contains deletions under FOI

From: Geoffrey s 47F
To: Nathan s 47F Peter s 47F
Subject: RE: Dep response to s7 request - preliminary inquiry on Tourist Refund Scheme - DIBP ref: OHR 15-00314 [DLM=Sensitive]
Date: Friday, 18 September 2015 12:57:46 PM

Dear Nathan and Peter

Thanks Nathan.

My thorts

1. The acknowledgement that the 30 min rule is not supported by law is the same as we've had before when asking the same question (for example - s 47F)
2. DIBP does not appear at all troubled by the above
3. The drop box arrangement appears to be very ad-hoc
4. There doesn't seem to be any doubt that the 30 min rule is strictly enforced
5. You can't blame the stakeholders because they want their planes to leave on time
6. Most passengers get thru ok
7. Some passengers do not have a care in the world how long they spend in the DF shops or who thy inconvenience by being late at the boarding gate
8. But there is room for improvement – the TRS app is on the right track, but the "sighting goods and actual invoices" is always going to bedevil this scheme.

Perhaps we can encourage them to reform. The law and regs around the 30 min rule should be where they start.

Regards all

Geoff s 47F
Investigation Officer
Operations South
COMMONWEALTH OMBUDSMAN
☎ 1300 362 072

s 47E

Direct ☎ s 47E

Fax 08 7088 0699
Level 4 | 22 King William Street
ADELAIDE SA 5000

From: Nathan s 47F
Sent: Friday, 18 September 2015 10:59 AM
To: Geoffrey s 47F Peter s 47F

Contains deletions under FOI

Subject: FW: Departmental response to s7 request - preliminary inquiry on Tourist Refund Scheme - DIBP ref: OHR 15-00314 [DLM=Sensitive]

Geoff, Peter

Here is the response from DIBP to our queries re the TRS.

I've had a quick look through it but haven't yet studied it in detail.

Can you please review it and get back to me with any thoughts and/or comments?

Thanks

Nathan

Contains deletions under FOI

From: Geoffrey [REDACTED]
To: Nathan [REDACTED]
Subject: RE: TRS [SEC=UNCLASSIFIED]
Date: Wednesday, 30 September 2015 11:29:06 AM
Attachments: Response to Ombudsman's Office [REDACTED]

Excellent

I think it's a good topic for an OM because we can already point to 2 potential recommendations, as you refer to:

1. That action be taken to place the 30 min rule on a legislative or regulatory footing where none exists at present; and
2. That a review be conducted into the "drop box" arrangement to raise its profile and perhaps to establish it as an alternative to queuing up at a counter if people are content to file a TRS claim in writing and nominate a financial institution into which the Commissioner can remit \$AU in due course.

In re item 9 on your list, [REDACTED] of ACBPS acknowledged at P3 of her initial response (attached) in the [REDACTED] investigation [REDACTED] that

"While there is no legislative basis for the 30 minute rule, it is a standard administrative agreement that has been in place since the TRS...."

.. so ACBPS are aware that there's no legal basis, but persist anyway, because of the good admin reason for getting planes away on time... which is, as we discussed, perfectly reasonable.

Kind regards

Geoff

From: Nathan [REDACTED]
Sent: Wednesday, 30 September 2015 10:30 AM
To: Geoffrey [REDACTED]
Subject: RE: TRS [SEC=UNCLASSIFIED]

Geoff

Would you mind having a look at this draft minute?

Let me know if you think I've missed anything. I've kept it fairly light on detail at this stage but have tried to include the essence of the issue.

Thanks

Nathan

From: Geoffrey [REDACTED]
Sent: Wednesday, 30 September 2015 10:20 AM
To: Nathan [REDACTED]
Subject: RE: TRS [SEC=UNCLASSIFIED]

Contains deletions under FOI

Dear Nathan

A New Tax System (Goods and Service Act) 1999

Division 168 Tourist Refund Scheme

ss 168.1, 168.5 and 168.10

particularly

http://www5.austlii.edu.au/au/legis/cth/consol_act/antsasta1999402/s168.5.html

hope this helps

regards

Geoff

From: Nathan [REDACTED]
Sent: Wednesday, 30 September 2015 9:34 AM
To: Geoffrey [REDACTED]
Subject: TRS [SEC=UNCLASSIFIED]

Geoff

To save me some time, can you point me to the legislation governing the operation of the TRS?

Thanks

Nathan [REDACTED]
Assistant Director
Immigration Strategy Team
Commonwealth Ombudsman
Ph: [REDACTED] Fax: 02 6276 0123

Contains deletions under FOI

Gregory Parkhurst

From: John s 47F
Sent: Friday, 19 May 2017 4:33 PM
To: Elaine s
Subject: FW: OO Recommendation tracking [DLM=For-Official-Use-Only]
Attachments: OO Recommendation progress.XLSB

FYI

From: s 47E
Sent: Friday, 19 May 2017 2:58 PM
To: Christopher s 47F s 47E
Cc: John s 47F s 47E s 47F s 47E
s 47E
Subject: OO Recommendation tracking [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi Chris

As discussed at our liaison meeting, please find attached a spreadsheet of progress against Ombudsman's office recommendations arising from Own Motions and s.12(4) notices for the financial year 2016/17.

The Audit and Assurance Branch will be tracking recommendation implementation on a regular basis. The next report will be prepared at the end of July 2017. I will provide an updated list at that time.

Kind regards

s 47F

s 47F

A/g Director, External Scrutiny and Audit Governance Section
Audit and Assurance Branch, Integrity, Security and Assurance Division
Department of Immigration and Border Protection
P: s 47E
E: s 47E

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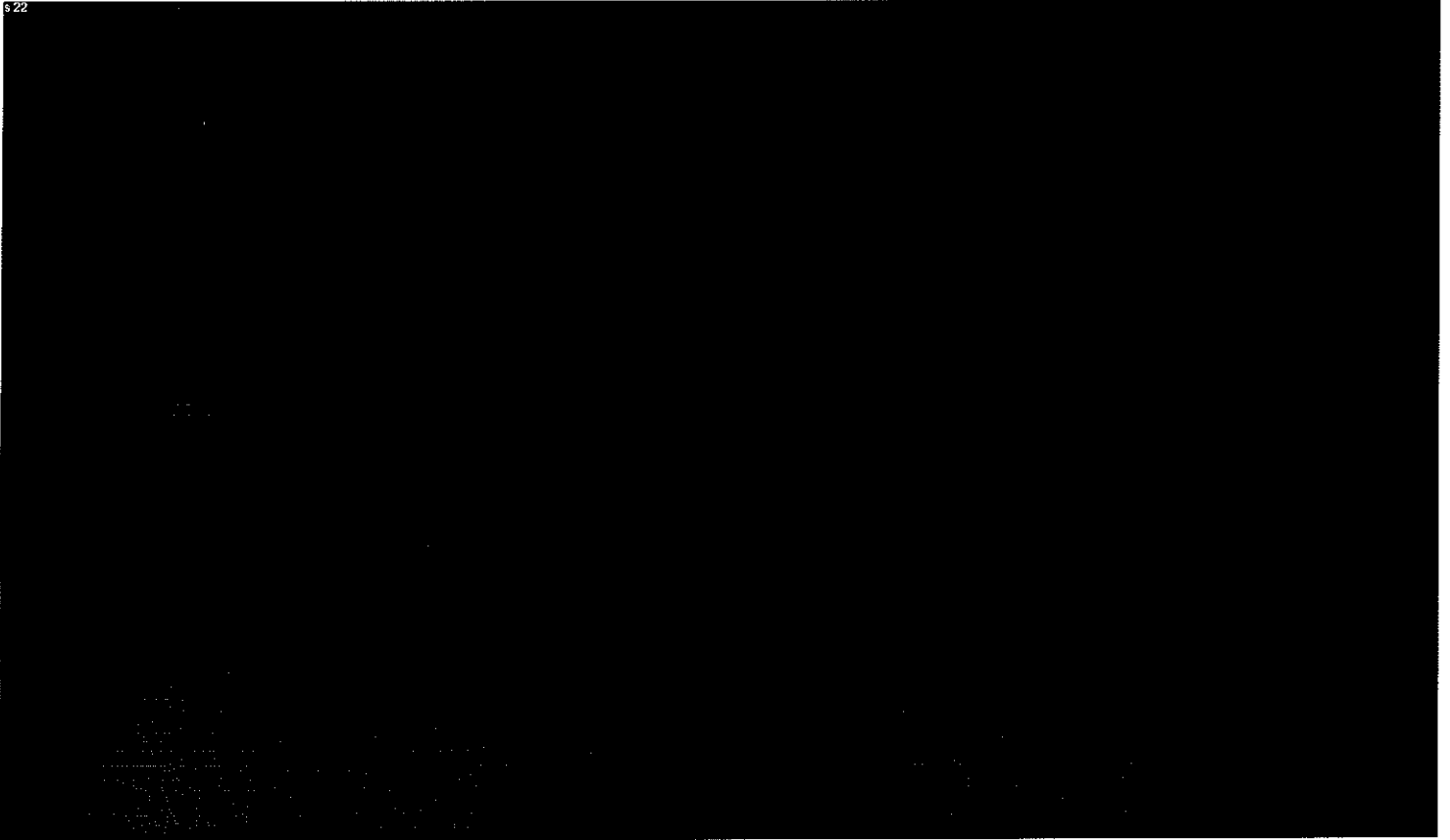
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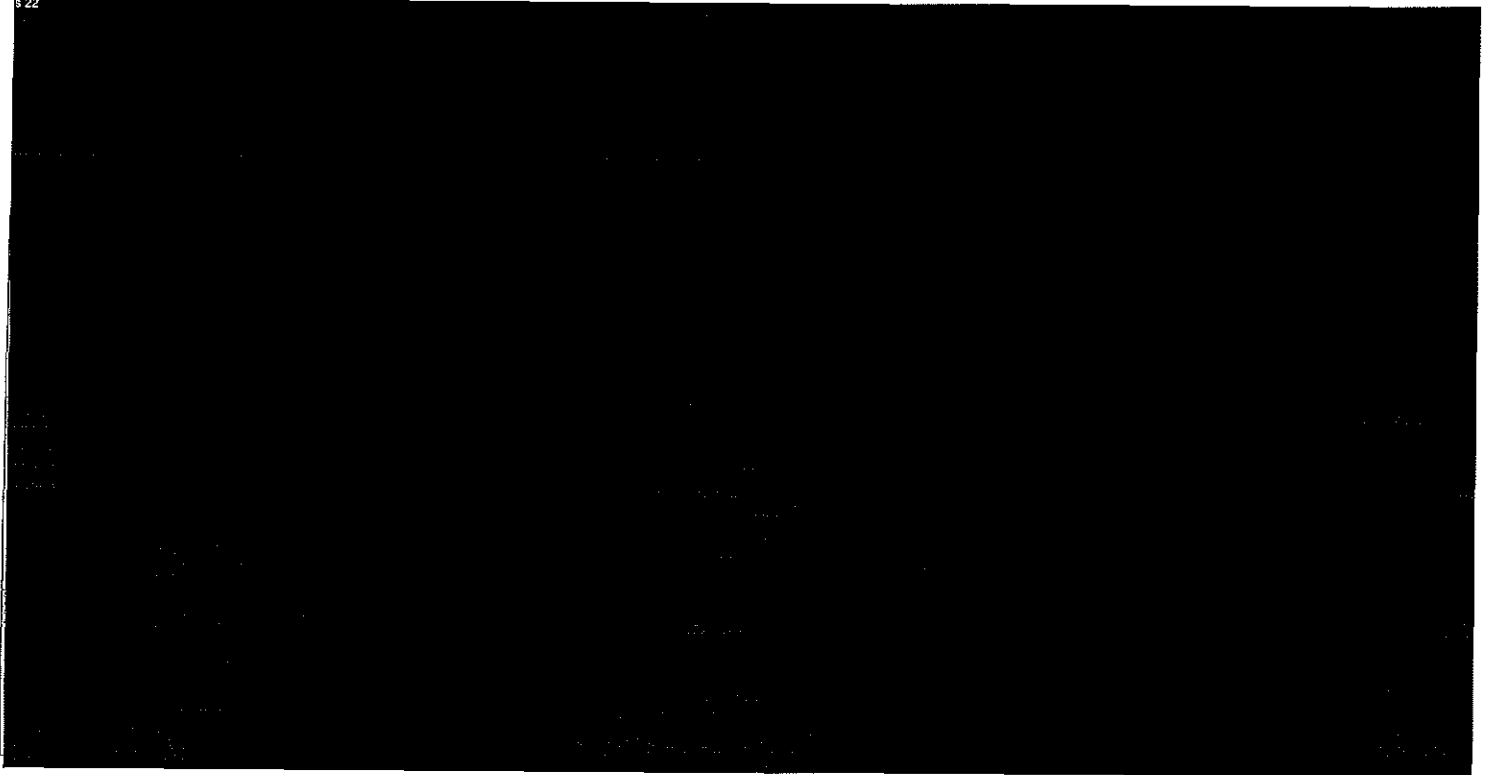
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Report Name	Status (Open / Closed)	Finding	Recommendation	Department's response to this DO	Status update from the business area (6 May 2019)
Investigation into the Threatened Species Act and the Application of 30 Minute Rule	Open	No procedure at the airport to ensure that all passengers (TRES processing) are subject to full assessment with their bags. While the percentage of people who have complained to the Department about bag dogs derived claims for not meeting the 30 minute rule is small, as the number of airports who have already complied for the Department there is an increased pressure to ensure that the Department must act in accordance with this law.	As an interim measure the department will do its utmost steps to ensure that all workers who walk to their TRES rooms are able to do so in a way that is consistent with the law. The department has contacted the relevant companies that the Government Customs Board had tasked to deliver a POC in relation to process claims less than 30 minutes before passengers' flight departure and the best option to process TRES claims. Above requirements have been advised that they can verify to the passenger partner to give the status or risk of affecting their flight.	The department agrees with recommendations made, it was a pleasure to comply, most of which took a long time to achieve. Designing new products that will be signed by individuals to deliver full compliance with the law, with no cost to the government and airport, is still to be done.	The Department's website has been updated and no longer refers to the 30 minutes rule. For further information on the website and signage, including the POC app that can be used to enter incorrect baggage a TRES claim, please see the POC banner and sign that are available on the website. The Department will continue to push the POC of Central and the existing regulatory change that will support improved deployment of a dog team as required.
Investigation into the Threatened Species Act and the Application of 30 Minute Rule	Closed	The Commission of the Environment has an alternative addition to the second paragraph 104-5.1 is the ability for permanent retention of the dog being given evidence of the location of other dogs with the TRES policy to allow a self-reporting system at the site of capture, to reduce the time in the doghouse and where it is possible in some cases.	The department consider the permanent use of the dog box facility at TRES facilities at all international points of departure, and taken all measures to ensure that the appropriate regulations are in place to give effect to this arrangement.	The Department is in the process of changing the website to remove reference to the 30 minute rule. The new information is planned for up load in the week commencing 10 October 2018. The department wishes to consider the permanent opening of a dog box facility and, if that proposal has the support of all affected parties, to support full action with regulations as necessary. Where there is the need to discuss regulations, publication from the entry will be sought Progress update provided on 10/10/2018 The Department met with Australian Liaison Office (ALTO) on 10th September 2018. Discussions included how to best secure approval from the TRES by referenced to the Department to allow the permanent implementation of the TRES dog box. This AIO advised the Treasury on 16th October regarding the	Mitigation strategies to allow for the potential development of the TRES Compliance have been published and it is anticipated that the relevant TRES efforts will take place in November or December 2017.

Contains deletions under FOI



Contains deletions under FOI



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From: Susan S
To: s 47E
Subject: Tourist refund Scheme Own Motion - follow up actions [DLM=For-Official-Use-Only]
Date: Tuesday, 27 September 2016 4:01:00 PM
Attachments: [image001.png](#)

Dear Mr s 47F,

Ombudsman own motion investigation into the operation of the Tourist Refund Scheme (TRS), in particular the application of the '30 minute Rule'

The purpose of this email is the follow-up on the implementation of two recommendations made by the Ombudsman in the TRS own motion published in July this year.

In the report the Ombudsman recommended that:

- As an interim measure the department takes all reasonable steps to ensure that travellers who wish to claim a TRS refund are able to do so in a way that is consistent with the law.
- The department considers the permanent use of the drop box facility at TRS facilities at all international points of departure, and takes all necessary steps to ensure the appropriate regulations are in place to give effect to this arrangement.

The department accepted these recommendations and advised us that it has commenced discussions with ATO to remove 30 minute rule. The department advised that:

- It will remove reference to rule from its internet site within 3 months and from brochures with next print run
- It has commenced working with airlines and airport operators to identify options to lawfully process TRS to ensure no passenger is disadvantaged when making a claim while mitigating any adverse effects on airport operations and flight times
- It is considering the use of drop box facilities at all points of international departure.

We would appreciate an indication of how the department is progressing with the implementation of the recommendations and the actions outlined above. We would appreciate a response within by **25 October**.

Please do not hesitate to contact me if you have any questions.

Yours sincerely,

Susan S
Strategy Officer
COMMONWEALTH OMBUDSMAN
Phone: s 47E
Email: s 47E
Website: ombudsman.gov.au

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Influencing systemic improvement in public administration

The Office of the Commonwealth Ombudsman acknowledges the traditional owners of country throughout Australia and their continuing connection to land, culture and community. We pay our respects to elders past and present.

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From: s 47F
To: Susan S
Cc: s 47E
Subject: RE: Tourist refund Scheme Own Motion - follow up actions [DLM=For-Official-Use-Only]
Date: Wednesday, 12 October 2016 9:12:15 AM
Attachments: [image001.png](#)

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Good morning Susan,

I offer the following updates in response to the Ombudsman's Tourist Refund Scheme own motion report recommendations:

- As an interim measure the department takes all reasonable steps to ensure that travellers who wish to claim a TRS refund are able to do so in a way that is consistent with the law.

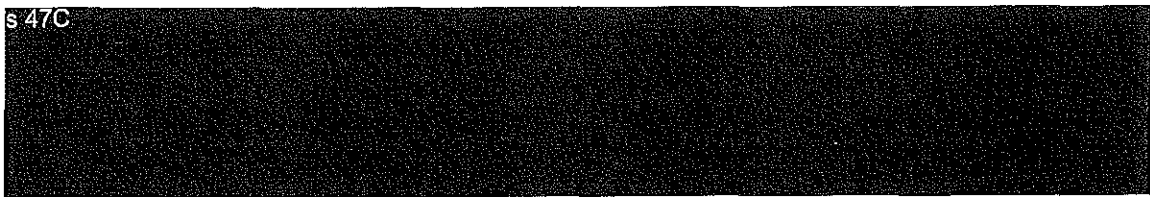
The Department of Immigration and Border Protection has advised all Regional Commands that the Commonwealth Ombudsman found it unlawful for ABF to refuse to process claims less than 30 minutes before a passenger's flight departure and the lawful options to process TRS claims. Airline representatives have been advised that they can continue to request passengers leave the queue or be at risk of missing their flight.

The Department is commencing a Proof of Concept (PoC) at Sydney airport at the end of October to allow passengers from selected high TRS usage flights to lodge their TRS drop box form at their boarding gate rather than the TRS facility. This will help ensure that flights are not delayed due to passengers wishing to make a claim. The PoC has received indicative support from the Airport Corporation and the participating airlines.

The Department is in the process of changing its website to remove reference to the 30 minute rule. The new Internet information is planned for up-load in the week commencing 10 October 2016

- The department considers the permanent use of the drop box facility at TRS facilities at all international points of departure, and takes all necessary steps to ensure the appropriate regulations are in place to give effect to this arrangement.

s 47C



Please don't hesitate to contact me to discuss.

Kind regards,

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S

s 47F

Manager

External Accountability Section

Risk and Assurance Branch | Integrity, Security and Assurance Division

Corporate Group

Department of Immigration and Border Protection

M: s 47E

E: s 47E

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Gregory Parkhurst

From: John § 47F
Sent: Monday, 30 October 2017 10:40 AM
To: Nathan § 47F; Elaine § 47F; Sally § 47F
Subject: FW: OO Recommendation progress October 2017 [DLM=For-Official-Use-Only]
Attachments: OO Recommendation progress October 2017.XLSB; 27102017154637-0001.pdf

Please see the department's response to the implementation of our own motion report recommendations.
Nathan/Elaine you may want to forward at least in part to Erica as its includes a response to their Stored Comins reports.

§ 22

From: [mailto:§ 47E]
Sent: Friday, 27 October 2017 6:06 PM
To: John § 47F; § 47E
Cc: § 47E; § 47E
Subject: OO Recommendation progress October 2017 [SEC-UNCLASSIFIED]

UNCLASSIFIED

Dear John,

Please find attached the recommendation update.

Also attached is a PDF in support of the rec in row 8 of the attached.

Please also find the minutes of the last Halson meeting.

I look forward to seeing you at the next meeting.

§ 47F
Assistant Director, ANAO and Ombudsman Section
Audit and Assurance Branch | Integrity, Security and Assurance Division
Corporate Group
Department of Immigration and Border Protection
P: § 47E | M: § 47E
E: § 47E

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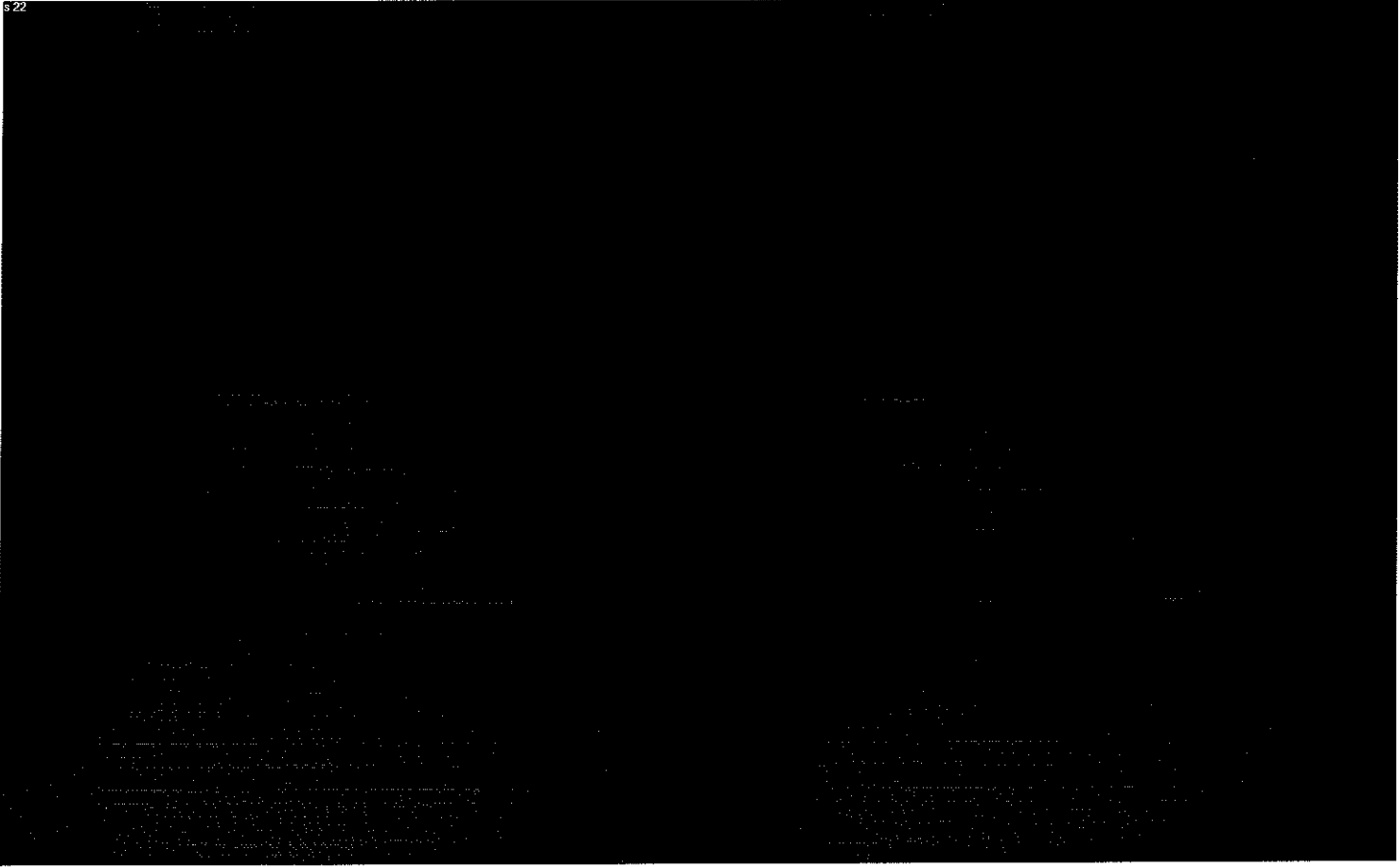
Report Name	Status (Open / Closed)	Finding	Recommendation	Update
Investigation into the Tourist Refund Scheme and the Application of the 30 Minute Rule	Open	It is incumbent on the department to ensure that such arrangements (i.e. TRS processing) are designed in full accordance with the law. While the percentage of people who have complained to the department about having been denied refunds for not meeting the 30 minute rule is small, as is the number of people who have subsequently complained to the Ombudsman, there is an important principle to be considered - that the department must act in accordance with the law.	As an interim measure the department takes all reasonable steps to ensure that travellers who wish to claim a TRS refund are able to do so in a way that is consistent with the law.	Reference is no longer made to the 30 minute rule on the Department's website and the rule is not in place. The website gives clear guidance on what can and can not be claimed and how a claim can be made. The mobile and web Tourist Refund Scheme (TRS) applications (apps) allow individuals to enter the information required to lodge a TRS claim. Use of the web app can provide an individual with access to a dedicated queue at the TRS facility and facilitate faster claims processing.
Investigation into the Tourist Refund Scheme and the Application of the 30 Minute Rule	Closed	The Ombudsman is of the view that an alternative solution is to amend regulation 168-5.13 to allow for the permanent operation of the drop box facility, giving departing travellers the option of either queuing at the TRS facility to have their refund processed at the time of departure, or lodge their claim in the drop box and to have it processed in due course.	The department consider the permanent use of the drop box facility at TRS facilities at all international points of departure, and takes all necessary steps to ensure the appropriate regulations are in place to give effect to this arrangement.	Changes to regulations have been drafted to allow wider use of the drop box. Planned date of effect is December 2017.

Contains deletions under FOI



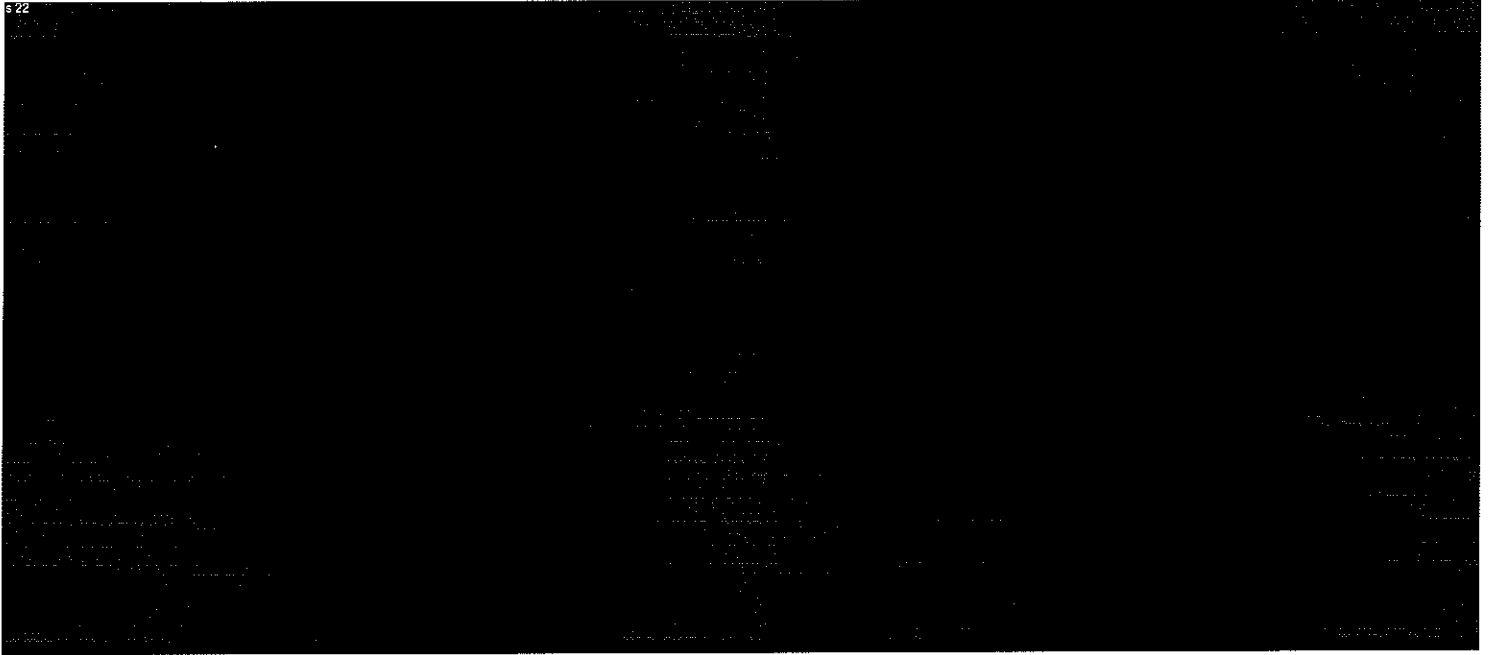
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From: Nathan S 47F
To: S 47E
Subject: s7 request - preliminary inquiry on Tourist Refund Scheme [SEC=UNCLASSIFIED]
Date: Wednesday, 19 August 2015 2:58:00 PM

Dear External Accountability Section

Under section 7 of the *Ombudsman Act 1976* I am requesting information on the operation of the Tourist Refund Scheme.

This office has received a number of complaints relating to the operation of this scheme, in particular as it relates to people who are unable to have their refund request processed before the 30 minute cut-off time before the scheduled departure of their flight.

I would appreciate if you could provide answers to the following questions:

1. Is the department confident that the administrative arrangements supporting the 30 minute cut-off time are supported by legislation?
 - a. If so, please provide evidence of relevant legal advice to this effect if it is available.
2. Is there a 'drop-box' facility at points of departure that allow people to lodge their claim for a refund if they cannot meet the 30 minute cut-off deadline?
 - a. If so, please advise how this operates, including location of drop-boxes, signage, hours of availability etc
 - b. when claims are processed, and
 - c. if people are permitted to use this facility even if they have more than 30 minutes before their departure but for whatever reason do not want to queue to have their refund processed at the time.
3. The department website states on its 'are you a traveller' page 'If you are leaving from another airport or seaport, contact the Department to find out how to make a claim.' A recent complainant to this office provided a copy of a letter from Customs in response to his complaint to Customs that states 'The TRS is only available at the time and place of departure and unfortunately cannot be processed after the departure date.' It would seem that there might be a conflict between these two pieces of information. Presumably if a person is departing from another airport or seaport then there are other arrangements in place for the processing of TRS claims and this may mean that claims are, or can be, processed after a departure date. Please advise:
 - a. What are the arrangements for claiming TRS from another airport or seaport (other than those listed on the 'are you a traveller' page of the department's website)?
 - b. Does this conflict with Customs' advice that claims cannot be processed after the departure date?
4. If data is available, please advise:
 - a. how many TRS claims were received in the financial year 2014/15
 - b. how many TRS claims were rejected in the same period for being lodged outside the stipulated period

Contains deletions under FOI

- c. how many complaints were received about the operation of the TRS in the same period
- d. how many complainants subsequently had their claim processed after their complaint was dealt with

5. Any further information that may assist our office in its understanding of this issue.

It would be appreciated if you could respond to this request by 16 September 2015.

Thank you for your assistance.

Nathan s 47F
Assistant Director
Immigration Strategy Team
Commonwealth Ombudsman
Ph: s 47E | Fax: 02 6276 0123



Treasury Laws Amendment (2017 Measures No. 2) Regulations 2017

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 16 November 2017

Peter Cosgrove
Governor-General

By His Excellency's Command

Kelly O'Dwyer
Minister for Revenue and Financial Services

Disclosed under FOI

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Disclosed under FOI

Disclosed under FOI

1 Name

This instrument is the *Treasury Laws Amendment (2017 Measures No. 2) Regulations 2017*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	18 November 2017

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the following:

- (a) the *A New Tax System (Goods and Services Tax) Act 1999*;
- (b) the *Income Tax Assessment Act 1997*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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Schedule 1 Exempt entities

Schedule 1—Exempt entities

Income Tax Assessment Regulations 1997

1 Regulation 50-50.01 (heading)

Repeal the heading, substitute:

50-50.01 Prescribed institutions located outside Australia

2 Regulation 50-50.01

Omit “paragraph 50-50(c)”, substitute “the purposes of paragraph 50-50(1)(c)”.

3 Regulation 50-50.02

Repeal the regulation, substitute:

50-50.02 Prescribed institutions pursuing objectives principally outside Australia

For the purposes of paragraph 50-50(1)(d) of the Act, each institution mentioned in an item in the following table, and each institution that is a member of that institution, is a prescribed institution for the period:

- (a) starting on the date specified in column 2 for the item; and
- (b) ending on the date specified (if any) in column 3 for the item.

Prescribed institutions pursuing objectives principally outside Australia			
Item	Column 1 Name of institution	Column 2 Starting date	Column 3 Ending date
1	Alkitab Inc	1 July 1997	
2	Asia-Pacific Christadelphian Bible Mission Incorporated	1 July 1997	
3	Australian Advisory Council of the Christian Leaders' Training College of Papua New Guinea	1 July 1997	
4	Australian Evangelical Alliance Incorporated (Missions Interlink)	1 July 1997	
5	Steer Incorporated	1 July 1997	
6	The Trustees of the Marist Missions of the Pacific	1 July 1997	
7	Zebedee Investments Limited	1 July 1997	
8	Millennium Relief and Development Services Incorporated	3 September 2001	
9	The MITRE Corporation	1 July 2016	30 June 2022

4 Regulation 50-50.03

Omit “paragraph 50-70(c)”, substitute “the purposes of paragraph 50-70(1)(c)”.

Schedule 2—Tourist refund scheme

A New Tax System (Goods and Services Tax) Regulations 1999

1 Subregulations 168-5.10(1) to (3)

Repeal the subregulations, substitute:

- (1) The acquirer must present to an officer of Customs, on request, at a TRS verification facility:
 - (a) the tax invoice relating to the goods; and
 - (b) as many of the following as are requested:
 - (i) the goods;
 - (ii) the acquirer's passport;
 - (iii) documents that confirm the acquirer's entitlement to leave the indirect tax zone on an aircraft or ship (for example, the acquirer's boarding pass or ticket).
- (2) However, if a TRS verification facility enables an acquirer to lodge a claim for payment, the acquirer may instead:
 - (a) complete a claim for payment; and
 - (b) include the acquirer's tax invoice with the claim; and
 - (c) lodge the claim for payment at the TRS verification facility.
- (3) The acquirer must comply with subregulation (1) or (2):
 - (a) if the acquirer is leaving the indirect tax zone on an aircraft—at least 30 minutes before the aircraft's scheduled departure time; or
 - (b) if the acquirer is leaving the indirect tax zone on a ship—at least 60 minutes before the ship's scheduled departure time.

Note: A TRS verification facility may enable an acquirer to lodge a claim for payment, for example, by placing the claim in a drop box facility.

Note: The scheduled departure time of an aircraft or ship may change, for example, because of a delay.

2 Subregulation 168-5.10C(1)

After "request", insert " , at a TRS verification facility".

3 Subregulation 168-5.10C(2)

Repeal the subregulation, substitute:

- (2) However, if a TRS verification facility enables an acquirer to lodge a claim for payment, the acquirer may instead:
 - (a) complete a claim for payment; and
 - (b) include the following documents with the claim:
 - (i) the acquirer's tax invoice;
 - (ii) documentary evidence referred to in paragraph (1)(b);
 - (iii) documentary evidence referred to in subparagraph (1)(c)(i) or (ii); and
 - (c) lodge the claim for payment at the TRS verification facility.

Note: A TRS verification facility may enable an acquirer to lodge a claim for payment, for example, by placing the claim in a drop box facility.

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Schedule 2 Tourist refund scheme

(2A) The acquirer must comply with subregulation (1) or (2):

- (a) if the acquirer is leaving the indirect tax zone on an aircraft—at least 30 minutes before the aircraft's scheduled departure time; or
- (b) if the acquirer is leaving the indirect tax zone on a ship—at least 60 minutes before the ship's scheduled departure time.

Note: The scheduled departure time of an aircraft or ship may change, for example, because of a delay.

4 Paragraph 168-5.12(1)(a)

Omit "regulation 168-5.10", substitute "subregulations 168-5.10(1) and (3) or subregulations 168-5.10C(1) and (2A)".

5 Regulation 168-5.13

Repeal the regulation.

6 Regulation 168-5.17 (heading)

Repeal the heading, substitute:

168-5.17 Processing claim for payment

7 Paragraph 168-5.17(1)(a)

Omit "regulation 168-5.13", substitute "subregulations 168-5.10(2) and (3) or subregulations 168-5.10C(2) and (2A)".

8 Subregulation 168-5.17(3)

Repeal the subregulation, substitute:

- (3) The payment must be made within 60 days after whichever is the later of the following:
 - (a) the day the Comptroller-General of Customs receives the claim;
 - (b) if the Comptroller-General of Customs asks the acquirer to give information relating to the claim for payment—the day the Comptroller-General receives the information.

9 Clause 104 of Part 2 of Schedule 15 (heading)

Repeal the heading, substitute:

104 Processing claim for payment

10 In the appropriate position in Schedule 15

Insert:

**Part 5—Amendments made by the Treasury Laws
Amendment (2017 Measures No. 2)
Regulations 2017**

107 Claim for payment

- (1) The amendments made by Schedule 2 to the *Treasury Laws Amendment (2017 Measures No. 2) Regulations 2017* apply on and after the start day in relation to a claim for payment under Division 168:
- (a) made on or after that start day; or
 - (b) made, but not finally dealt with, before that start day.

- (2) In this clause:

Division 168 means Division 168 of these Regulations and includes that Division as affected by Division 25 of the *A New Tax System (Wine Equalisation Tax) Regulations 2000*.

start day means the first day of the month following the day that Schedule 2 to the *Treasury Laws Amendment (2017 Measures No. 2) Regulations 2017* commences.

Disclosed under FOI



A New Tax System (Goods and Services Tax) Regulations 1999

Statutory Rules No. 245, 1999

made under the

A New Tax System (Goods and Services Tax) Act 1999

Compilation No. 37

Compilation date: 4 December 2017

Includes amendments up to: F2017L01568

Registered: 8 December 2017

This compilation includes retrospective amendments made by F2017L01568

Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *A New Tax System (Goods and Services Tax) Regulations 1999* that shows the text of the law as amended and in force on 4 December 2017 (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 Legislation Register (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 Legislation Register 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.

Editorial changes

For more information about any editorial changes made in this compilation, see 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 Legislation Register 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.

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Part 1—Preliminary

1 Name of Regulations

These Regulations are the *A New Tax System (Goods and Services Tax) Regulations 1999*.

3 Definitions—the dictionary etc

- (1) The dictionary at the end of these Regulations defines words and expressions for the purposes of the Regulations, and includes references to words and expressions that are defined in the Act or elsewhere in the Regulations (*signpost definitions*).

Example of signpost definition: The signpost definition '*interest* see regulation 40-5.02' means that the word *interest* is defined in regulation 40-5.02.

- (2) The dictionary does not include a signpost definition for a word or expression if the word or expression is not used in more than 1 regulation.
- (3) The dictionary is part of these Regulations.
- (4) A definition of, or reference to, a word or expression in the dictionary applies to each use of the word or expression in these Regulations, unless the contrary intention appears.

Disclosed under FOI

Part 2-5 Registration

Division 23 Who is required to be registered and who may be registered

Regulation 23-15.01

Part 2-5—Registration

Division 23—Who is required to be registered and who may be registered

23-15.01 Registration turnover threshold (other than for non-profit bodies) (Act ss 23-15 (1))

For paragraph 23-15(1)(b) of the Act, the amount of \$75 000 is specified.

23-15.02 Registration turnover threshold for non-profit bodies (Act ss 23-15 (2))

For paragraph 23-15(2)(b) of the Act, the amount of \$150 000 is specified.

Disclosed under FOI

Tax periods **Part 2-6**
What is attributable to tax periods **Division 29**

Regulation 29-80.01

Part 2-6—Tax periods

Division 29—What is attributable to tax periods

Subdivision 29-C—Tax invoices and adjustment notes

29-80.01 Value of taxable supply (Act ss 29-80(1))

For subsection 29-80(1) of the Act, the amount of \$75 is specified.

29-80.02 Adjustment note threshold (Act ss 29-80 (2))

For subsection 29-80(2) of the Act, the amount of \$75 is specified.

Disclosed under FOI

Part 2-7 Returns, payments and refunds
Division 33 Payments of GST

Regulation 33-15.01

Part 2-7—Returns, payments and refunds

Division 33—Payments of GST

33-15.01 Purpose of Division

For paragraph 33-15(1)(b) of the Act, this Division provides for the deferral of payments of amounts of assessed GST on taxable importations.

33-15.02 Application for approval

- (1) An entity may apply to the Commissioner for approval to make deferred payments of assessed GST on taxable importations.
- (2) The application must:
 - (a) be made in a manner approved by the Commissioner; and
 - (b) contain the information required by the Commissioner.

33-15.03 Requirements for approval

- (1) The Commissioner must, in writing, approve an application by an entity if the Commissioner is satisfied of the following matters:
 - (a) the entity is registered under Part 2-5 of the Act;
 - (b) the entity has an ABN;
 - (c) if the entity is an individual, the entity is not an undischarged bankrupt;
 - (d) the tax period applying to the entity is each individual month;
 - (e) if the entity is a member (but not the representative member) of a GST group, the representative member of the group is an approved entity;
 - (f) the bank guarantee (if any) required under regulation 33-15.04 has been provided;
 - (g) the entity will be able to comply with the requirements in subregulation 33-15.06(1);
 - (h) it would not be appropriate to refuse the application under subregulation (2), (3) or (4).
- (2) The Commissioner may refuse the application if the entity is a Chapter 5 body corporate (within the meaning of by section 9 of the *Corporations Act 2001*).
- (3) The Commissioner may refuse the application if, in the period of 3 years before the date of the application:
 - (a) the entity; or
 - (b) if the entity is not an individual, an individual who is relevant to the entity's application;has been convicted by a court, whether in Australia or in another country, of an offence in relation to taxation requirements, customs requirements, the

Disclosed under FOI

Returns, payments and refunds **Part 2-7**
Payments of GST **Division 33**

Regulation 33-15.04

misdescription of goods, trade practices, fair trading or the defrauding of a government.

Note: This subregulation is subject to Part VIIC of the *Crimes Act 1914*, which includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of spent convictions to disregard them.

- (4) The Commissioner may refuse the application if the entity, or any of its related entities (if any), has:
- (a) an outstanding tax-related liability; or
 - (b) a return outstanding under a taxation law.

- (5) In subregulation (4):

related entity means:

- (a) for an entity that is a member of a GST group—any other member of the GST group; or
- (b) for an entity that is a joint venture operator for a GST joint venture—any other company that is a participant in the GST joint venture; or
- (c) for an entity that is a parent entity of a GST branch—any GST branch of the parent entity; or
- (d) for an entity that is a GST branch of a parent entity—the parent entity or any other GST branch of the parent entity.

33-15.04 Bank guarantee requirement

- (1) If:
- (a) an entity applies for approval; and
 - (b) a previous approval of the entity has been revoked under regulation 33-15.08;
- the Commissioner may require the entity to provide a bank guarantee in relation to the payment of deferred payments of assessed GST on taxable importations.
- (2) The guarantee must provide that, if an amount of assessed GST on taxable importations is not paid to the Commissioner on or before the day mentioned in regulation 33-15.07, the bank will pay to the Commissioner the lesser of:
- (a) the overdue amount; and
 - (b) the guarantee amount worked out under subregulation (3).
- (3) The guarantee amount is 1.5 times the highest monthly amount of assessed GST on taxable importations that was payable by the entity:
- (a) in the 12 months before the application mentioned in paragraph (1)(a) was made; or
 - (b) if no monthly amounts of assessed GST on taxable importations were payable in that 12 months, in the 12 months before the previous approval was revoked.

Disclosed under FOI

Part 2-7 Returns, payments and refunds

Division 33 Payments of GST

Regulation 33-15.05

33-15.05 Decision on application—notice and date of effect

- (1) If the Commissioner approves an entity's application, the Commissioner must give to the entity written notice of the approval.
- (2) The approval takes effect on the day specified in the approval.
- (3) If the Commissioner refuses an entity's application, the Commissioner must give to the entity written notice of the refusal.
- (4) The notice must:
 - (a) state the reasons for the refusal; and
 - (b) state that the entity has a right under regulation 33-15.09 to object against the decision.

33-15.06 Electronic dealings by approved entities

- (1) An approved entity must:
 - (a) enter goods for home consumption by computer (within the meaning of the *Customs Act 1901*); and
 - (b) lodge its GST returns electronically in a format approved by the Commissioner for this regulation; and
 - (c) pay the amounts of assessed GST for which the entity is liable by electronic payment.
- (2) However, paragraphs (1)(b) and (c) do not apply to an approved entity that is a member (but not the representative member) of a GST group.

33-15.07 Due date for deferred payments

An amount of assessed GST on taxable importations that is payable by an approved entity must be paid to the Commissioner on or before the 21st day after the end of the month in which the liability for the assessed GST arose.

33-15.08 Revocation of approval

- (1) The Commissioner may, in writing, revoke an entity's approval if the Commissioner is satisfied that:
 - (a) the entity no longer meets the requirements for approval in regulation 33-15.03; or
 - (b) the bank guarantee (if any) provided by the entity under regulation 33-15.04 has lapsed; or
 - (c) the entity has failed to meet a requirement in subregulation 33-15.06(1); or
 - (d) the entity is liable to pay a charge or penalty mentioned in Part IIA of the *Taxation Administration Act 1953*; or
 - (e) the entity is being prosecuted for, or has been convicted of, an offence under Part III of the *Taxation Administration Act 1953*.
 - (2) The revocation takes effect on the day specified in the revocation.
-

Disclosed under FOI

Returns, payments and refunds **Part 2-7**
Payments of GST **Division 33**

Regulation 33-15.09

- (3) If the Commissioner revokes an entity's approval, the Commissioner must give to the entity written notice of the revocation.
- (4) The notice must:
 - (a) state the reasons for the revocation; and
 - (b) state that the entity has a right under regulation 33-15.09 to object against the decision.

33-15.09 Review of decisions

An entity that is dissatisfied with a decision of the Commissioner to refuse an application by the entity under regulation 33-15.03, to require the entity to provide a bank guarantee under regulation 33-15.04, or to revoke an approval of the entity under regulation 33-15.08, may object against the decision in the manner set out in Part IVC of the *Taxation Administration Act 1953*.

Disclosed under FOI

Part 3-1 Supplies that are not taxable supplies
Division 38 GST-free supplies

Regulation 38-3.01

Part 3-1—Supplies that are not taxable supplies

Division 38—GST-free supplies

Subdivision 38-A—Food

38-3.01 GST-free beverages supplied from vending machines (Act s 38-3)

- (1) For subsection 38-3(2) of the Act, this regulation applies to a beverage that:
 - (a) is specified in the third column of the table in clause 1 of Schedule 2 to the Act; and
 - (b) apart from subregulation (2), would not be GST-free; and
 - (c) is supplied on premises from a vending machine for consumption on the premises.
- (2) Section 38-3 of the Act, except subsection (3), does not apply to a supply of the beverage.

38-3.02 Food additives (Act s 38-3)

- (1) For paragraph 38-3(1)(e) of the Act, food additives other than exempt food additives are specified.
- (2) Each of the following is an *exempt food additive*:
 - (a) a food additive which, at the time of supply is packaged and marketed for retail sale;
 - (b) a food additive which, at the time of supply:
 - (i) has a measurable nutritional value; and
 - (ii) is supplied for use solely or predominantly in the composition of food; and
 - (iii) is essential to the composition of that food.

Subdivision 38-B—Health

38-45.01 Medical aids and appliances (Act s 38-45)

- (1) For paragraph 38-45(1)(a) of the Act, the medical aids and appliances mentioned in Schedule 3 are specified.
- (2) Division 182 of the Act applies to the second column in Schedule 3 as if that column were the second column of the table in Schedule 3 to the Act.

Disclosed under FOI

Supplies that are not taxable supplies **Part 3-1**
GST-free supplies **Division 38**

Regulation 38-185.01

Subdivision 38-E—Exports and other supplies for consumption outside the indirect tax zone

38-185.01 Export of goods by travellers as accompanied baggage (Act s 38-185)

For item 7 of subsection 38-185(1) of the Act, the rules set out in Schedule 5 are specified in relation to the supply of goods to a relevant traveller.

Disclosed under FOI

Part 3-1 Supplies that are not taxable supplies

Division 40 Input taxed supplies

Regulation 40-5.01

Division 40—Input taxed supplies

Subdivision 40-A—Financial supplies

40-5.01 Object of Subdivision 40-A

The object of this Subdivision is to identify a supply that is or is not a financial supply.

Note 1: For the meaning of *supply*, see subsection 9-10(2) of the Act.

Note 2: Subsection 40-5(2) of the Act provides that *financial supply* has the meaning given by the regulations.

40-5.02 Interests

An *interest* is anything that is recognised at law or in equity as property in any form.

Examples of interests:

- 1 A debt or a right to credit
- 2 An interest conferred under a public or private superannuation scheme
- 3 A mortgage over land or premises
- 4 A right under a contract of insurance or a guarantee
- 5 A right to receive a payment under a derivative
- 6 A right to future property

40-5.03 Provision

Provision of an interest includes allotment, creation, grant and issue of the interest.

40-5.04 Disposal

Disposal of an interest includes assignment, cancellation, redemption, transfer and surrender of the interest.

40-5.05 Acquisition

Acquisition, in relation to the provision or disposal of an interest, includes acceptance and receipt of the interest.

40-5.06 Financial supply providers

- (1) An entity, in relation to the supply of an interest that was:
 - (a) immediately before the supply, the property of the entity; or
 - (b) created by the entity in making the supply;is the *financial supply provider* of the interest.

Disclosed under FOI

Supplies that are not taxable supplies **Part 3-1**
Input taxed supplies **Division 40**

Regulation 40-5.07

Examples of interests to which paragraph (a) applies:

- 1 A share or bond that is sold
- 2 Rights assigned under a derivative

Examples of interests to which paragraph (b) applies:

- 1 A share or bond that is issued
- 2 A derivative that is entered into

- (2) The entity that acquires that interest is also the *financial supply provider* of the interest.

40-5.07 Financial supply facilitators

A *financial supply facilitator*, in relation to supply of an interest, is an entity facilitating the supply of the interest for a financial supply provider.

40-5.08 When supply may be financial supply (Act s 40-5)

- (1) For subsection 40-5(2) of the Act, a supply is a financial supply if the supply is mentioned as:
 - (a) a financial supply in regulation 40-5.09; or
 - (b) an incidental financial supply in regulation 40-5.10.
- (2) However, if a supply is mentioned in regulations 40-5.09 and 40-5.12, the supply is not a financial supply.

40-5.09 What supplies are financial supplies

- (1) The provision, acquisition or disposal of an interest mentioned in subregulation (3) or (4) is a financial supply if:
 - (a) the provision, acquisition or disposal is:
 - (i) for consideration; and
 - (ii) in the course or furtherance of an enterprise; and
 - (iii) connected with the indirect tax zone; and
 - (b) the supplier is:
 - (i) registered or required to be registered; and
 - (ii) a financial supply provider in relation to supply of the interest.
- (2) However, if Division 84 of the Act applies to the provision, acquisition or disposal of an interest mentioned in subregulation (3), the provision, acquisition or disposal is a financial supply to the extent that it would, apart from subparagraphs (1)(a)(iii) and (b)(i), be a financial supply.
- (3) For subregulation (1), the interest is an interest in or under the matter mentioned in an item in the following table:

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Part 3-1 Supplies that are not taxable supplies

Division 40 Input taxed supplies

Regulation 40-5.09

Item	An interest in or under...
1	An account made available by an Australian ADI (authorised deposit-taking institution) in the course of: (a) its banking business within the meaning of the <i>Banking Act 1959</i> ; or (b) its State banking business
2	A debt, credit arrangement or right to credit, including a letter of credit
3	A charge or mortgage over real or personal property
4	A regulated superannuation fund, an approved deposit fund, a pooled superannuation trust or a public sector superannuation scheme within the meaning of the <i>Superannuation Industry (Supervision) Act 1993</i> , or an RSA (retirement savings account) within the meaning of the <i>Retirement Savings Accounts Act 1997</i>
5	An annuity or allocated pension
6	Life insurance business to which subsection 9(1) of the <i>Life Insurance Act 1995</i> , or a declaration under subsection 12(2) or section 12A of that Act, applies, or related reinsurance business
7	A guarantee
7A	An indemnity that holds a person harmless from any loss as a result of a transaction the person enters with a third party
8	Credit under a hire purchase agreement entered into before 1 July 2012 in relation to goods, if: (a) the credit for the goods is provided for a separate charge; and (b) the charge is disclosed to the recipient of the goods
9	Australian currency, the currency of a foreign country, digital currency or an agreement to buy or sell any of these 3 things
10	Securities, including: (a) a debenture described in paragraph (a), (b), (c), (e) or (f) of the definition of <i>debenture</i> in section 9 of the <i>Corporations Act 2001</i> ; and (b) a document issued by an individual that would be a debenture if it were issued by a body corporate; and (c) a scheme described in paragraph (e), (i) or (m) of the definition of <i>managed investment scheme</i> in section 9 of the <i>Corporations Act 2001</i> ; and (d) the capital of a partnership or trust
11	A derivative
12	An account made available by a non-resident in the course of carrying on banking business (within the meaning of the <i>Banking Act 1959</i>) in a foreign country in which the entity is authorised under the law of that country to carry on banking business
13	A foreign superannuation fund (within the meaning of the <i>Income Tax Assessment Act 1997</i>)

Note 1: Regulation 40-5.08 provides that this regulation applies subject to regulation 40-5.12. As a result, if something is within the scope of both an item in this table and an item in the table in regulation 40-16, it will *not* be a financial supply.

Note 2: Subparagraph 40-5.09(1)(b)(ii) has the effect that a supply by a financial supply facilitator is *not* a financial supply.

Note 3: Division 99 of the Act applies to taking of a deposit as security.

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Supplies that are not taxable supplies **Part 3-1**
Input taxed supplies **Division 40**

Regulation 40-5.10

Note 4: Supply of something that is mentioned in more than 1 item in this table will still be a financial supply.

- (4) A supply (to which item 1 in the table in subregulation (3) does not apply) by an Australian ADI for a fee of not more than \$1 000 is a financial supply if:
- (a) the item would have applied to that supply in relation to an account with the ADI; or
 - (b) the fee relates to an application to the ADI that, if accepted, would result in the creation of an account by the ADI.

Examples of financial supply mentioned in subregulation (4):

- 1 Electronic transfer to another Australian ADI for a person who does not hold an account with the ADI
- 2 A loan application fee

- (4A) A supply by an entity for a fee of not more than \$1 000 is a financial supply if it is a supply of 1 or more of the following ATM services:
- (a) a withdrawal from an account;
 - (b) a deposit into an account;
 - (c) an electronic transfer from an account;
 - (d) advice of the balance of an account.
- (5) A reference in item 10, in the table in subregulation (3), to a security, a debenture, a document, a scheme or capital in a partnership or trust does not include a security, debenture, document, scheme or capital in a partnership or trust, in relation to which an entity is given a right to participate in a barter scheme under which each participant may obtain goods or services from another participant for consideration that is wholly or substantially in kind rather than in cash.

40-5.10 Incidental financial supplies

Despite regulation 40-5.12, if something is supplied by an entity to a recipient directly in connection with a financial supply to the recipient by the entity, the thing is an *incidental financial supply* if:

- (a) it is incidental to the financial supply; and
- (b) it and the financial supply are supplied, at or about the same time, but not for separate consideration; and
- (c) it is the usual practice of the entity to supply the thing, or similar things, and the financial supply together in the ordinary course of the entity's enterprise.

Note: Regulation 40-5.12 applies subject to this regulation. As a result, if something is both an incidental financial supply and within the scope of an item in the table in regulation 40-5.12, it will still be a financial supply.

Example of an incidental financial supply: Advice, for which a separate charge is not made, in relation to a housing loan

Disclosed under FOI

Part 3-1 Supplies that are not taxable supplies

Division 40 Input taxed supplies

Regulation 40-5.11

40-5.11 Examples of supplies that are financial supplies

Something mentioned in a Part of Schedule 7 that relates to a financial supply mentioned in an item in the table in regulation 40-5.09, or to an incidental financial supply, is an example of the financial supply mentioned in the item or of the incidental financial supply.

Note 1: The examples are not to be taken as exhaustive.

Note 2: If an example in Schedule 7 is inconsistent with the description in this Division of the financial supply to which the example relates, the description prevails.

See section 15AD of the *Acts Interpretation Act 1901*.

Note 3: Something that is within the scope of an item in the table in regulation 40-5.09 will be a financial supply described in that item even if it is not mentioned as an example of the item set out in the Part of Schedule 7 relating to the item.

40-5.12 What supplies are not financial supplies (Act s 40-5)

For subsection 40-5(2) of the Act, the supply of something, or an interest in or under something, that is mentioned in an item in the following table is not a financial supply:

Item	Supply of, or an interest in or under...
1	Cheque and deposit forms and books supplied to an Australian ADI in connection with an account mentioned in item 1 in the table in regulation 40-5.09
2	Special forms, or overprinting of standard forms, by an Australian ADI to the requirements of particular account holders in connection with an account mentioned in item 1 in the table in regulation 40-5.09
3	Professional services, including information and advice, in relation to a financial supply
4	A payment system, except to the extent that it is digital currency
5	Stored value facility cards and prepayments not linked to accounts provided by an Australian ADI in connection with an account mentioned in item 1 in the table in regulation 40-5.09
6	Goods in accordance with agreements under which the goods are supplied under a lease, and: (a) the lessees have no obligation or option to acquire the rights of the lessors in the goods; or (b) the lessors dispose of their rights in the goods to the lessees
7	An option, right or obligation to make or receive a taxable supply, except a mortgage or charge mentioned in item 3 in the table in regulation 40-5.09
8	A supply made as a result of the exercise of an option or right, or the performance of an obligation, to make or receive a taxable supply, including an option, right or obligation under a mortgage or charge mentioned in item 3 in the table in regulation 40-5.09
9	Facilities for: (a) trading securities or derivatives; and (b) clearance and settlement of those trades
10	Insurance and reinsurance business, except business mentioned in item 6 of the table in regulation 40-5.09

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Supplies that are not taxable supplies **Part 3-1**
Input taxed supplies **Division 40**

Regulation 40-5.13

Item	Supply of, or an interest in or under...
11	Broking services
12	Management of the assets or liabilities of another entity, including investment portfolio management and administration services for trusts or superannuation, pension or annuity funds
13	Debt collection services
14	Sales accounting services under a factoring arrangement, or an arrangement having the same effect as a factoring arrangement
15	Trustee services
16	Custodian services in relation to money, digital currency, documents and other things
17	Australian currency, or the currency of a foreign country, the market value of which exceeds its stated value as legal tender, or an agreement to buy or sell currency of either kind the market value of which exceeds its stated value as legal tender
18	An arrangement for the provision of goods to an entity for display or demonstration pending disposal of the goods to a third party
19	Goods supplied under a hire purchase agreement entered into on or after 1 July 2012
20	Credit under a hire purchase agreement entered into on or after 1 July 2012
21	A warranty for goods

- Note 1: Regulation 40-5.09 applies subject to this regulation. As a result, if something is within the scope of both an item in the table in regulation 40-5.09 and an item in the table in this regulation, it will *not* be a financial supply.
- Note 2: Regulation 40-5.10 applies despite this regulation. As a result, if something is both an incidental financial supply and within the scope of an item in this table, it will still be a financial supply.
- Note 3: Division 105 of the Act deals with supply in satisfaction of a debt.
- Note 4: Sections 7-1 and 9-70 of the Act, and this regulation in respect of items 7 and 8 in this table, have the effect that GST is payable on the premium (if any) on a taxable deliverable commodity derivative and the price on settlement when the commodity is delivered.

40-5.13 Examples of supplies that are not financial supplies

Something mentioned in a Part of Schedule 8 that relates to a supply mentioned in an item in the table in regulation 40-5.12 is an example of the supply mentioned in the item.

- Note 1: The examples are not to be taken as exhaustive.
- Note 2: If an example is inconsistent with the description of the financial supply in the table to which the example relates, the description in the table prevails.

See section 15AD of the *Acts Interpretation Act 1901*.

Disclosed under FOI

Part 4-1 Special rules mainly about particular ways entities are organised
Division 48 GST groups

Regulation 48-10.01

Part 4-1—Special rules mainly about particular ways entities are organised

Division 48—GST groups

Subdivision 48-A—Approval of GST groups

48-10.01 Definitions for Subdivision

In this Subdivision:

family, in relation to a person, has the meaning given by section 272-95 of Schedule 2F to the *Income Tax Assessment Act 1936*, as if the person were the test individual mentioned in that section.

fixed trust has the meaning given by section 995-1 of the *Income Tax Assessment Act 1997*.

GST group includes a proposed GST group.

representative means:

- (a) in relation to a partner in a partnership:
 - (i) for a partner that is not an individual—the partner; and
 - (ii) for a partner that is an individual—the partner or a family member of the partner; and
- (b) in relation to a shareholder in a company:
 - (i) for a shareholder that is not an individual—the shareholder; and
 - (ii) for a shareholder that is an individual—the shareholder or a family member of the shareholder.

shareholder, of a company that is an unincorporated association, means a member of the association.

48-10.01A Trust distribution and beneficiaries

For this Subdivision, if the trustee of a trust distributes income or capital of the trust in such a way that another entity receives the income or capital indirectly through 1 or more interposed trusts or companies:

- (a) the trustee is taken also to distribute the income or capital to the other entity; and
- (b) the other entity is taken also to be a beneficiary of the trust.

48-10.02 Membership requirements for partnerships

- (1) For subparagraph 48-10 (1)(a)(ii) of the Act, this regulation sets out requirements that must be satisfied for a partnership to be a member of a GST group.

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Special rules mainly about particular ways entities are organised **Part 4-1**
GST groups **Division 48**

Regulation 48-10.02

Note: The partnership must also satisfy other membership requirements set out in section 48-10 of the Act.

- (2) If the GST group includes entities other than partnerships, the partnership must satisfy the requirements of subregulation (3), (3A), (4) or (5).
- (2A) If the GST group consists only of partnerships:
 - (a) there are no further requirements for one of the partnerships; and
 - (b) each other partnership must satisfy the requirements of subregulation (5).
- (3) The partnership satisfies the requirements of this subregulation if, for at least 1 company that is a member of the GST group:
 - (a) the partnership has at least a 90% stake in the company (worked out in accordance with section 190-5 of the Act as if the partnership were a company); or
 - (b) shares of the company are held in such a way that:
 - (i) if there is 1 shareholder—the shareholder is a representative of a partner in the partnership; and
 - (ii) if there is more than 1 shareholder—at least 2 shareholders are representatives of different partners in the partnership.
- (3A) The partnership satisfies the requirements of this subregulation if each partner in the partnership is:
 - (a) an individual who is a member of the GST group; or
 - (b) a family member of such an individual.
- (4) The partnership satisfies the requirements of this subregulation if, for at least 1 trust that is a member of the GST group, the beneficiaries include at least 2 representatives of different partners in the partnership.
- (5) The partnership (the *candidate partnership*) satisfies the requirements of this subregulation if:
 - (a) there is a partnership (the *member partnership*) that is a member of the GST group because of:
 - (i) paragraph (2A)(a) or subregulation (3), (3A) or (4); or
 - (ii) this subregulation, including the repeated application of this subregulation; and
 - (b) each partner in the candidate partnership is an individual, a family trust of an individual or a family company of an individual; and
 - (c) for each partner in the candidate partnership that is an individual, a family trust of an individual or a family company of an individual, one of the following is a partner in the member partnership:
 - (i) the individual;
 - (ii) a family trust of the individual;
 - (iii) a family company of the individual;
 - (iv) a family member of the individual;
 - (v) another individual for whom the first individual is a family member;
 - (vi) a family trust of a family member mentioned in subparagraph (iv) or the other individual mentioned in subparagraph (v);

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Division 48 GST groups

Regulation 48-10.03

- (vii) a family company of a family member mentioned in subparagraph (iv) or the other individual mentioned in subparagraph (v); and
 - (d) at least 2 of the partners in the candidate partnership comply with paragraph (c) through different partners in the member partnership (whether or not they also comply through the same partner in the member partnership).
- (6) For this regulation:
- (a) a **family trust** of an individual is a trust that distributes income or capital of the trust only to the individual or family members of the individual (whether or not other distributions could lawfully be made); and
 - (b) a **family company** of an individual is a company each shareholder of which is either the individual or a family member of the individual.

48-10.03 Membership requirements for trusts

- (1) For subparagraph 48-10(1)(a)(ii) of the Act, the requirements that must be satisfied for a trust to be a member of a GST group are:
- (a) if the GST group consists only of fixed trusts—either the requirements set out in this regulation or the alternative requirements set out in regulation 48-10.03A; and
 - (b) in any other case—the requirements set out in this regulation.
- Note: The trust must also satisfy other membership requirements set out in section 48-10 of the Act.
- (2) One of the following must be satisfied for the trustee of the trust (the **candidate trustee**):
- (a) the candidate trustee has at least a 90% stake in a company that is a member of the GST group (worked out in accordance with section 190-5 of the Act as if the trustee were a company);
 - (b) the candidate trustee distributes any income or capital of the trust only to beneficiaries that are permitted beneficiaries (whether or not other distributions could lawfully be made);
 - (c) the candidate trustee is the sole beneficiary of any distribution of income or capital by the trustee of another trust that is a member of the GST group;
 - (d) the candidate trustee distributes income or capital of the trust, and the trustee of another trust that is a member of the GST group distributes income or capital of the other trust, only to persons who are all family members of the same individual (whether or not other distributions could lawfully be made).

Note: Distributions to beneficiaries may be direct or indirect (regulation 48-10.01A).

- (3) Each of the following is a **permitted beneficiary**:
- (a) a company that is a member of the GST group;
 - (b) a charitable institution, a trustee of a charitable fund, or a gift-deductible entity;
 - (c) an individual who is a member of the GST group;

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GST groups **Division 48**

Regulation 48-10.03A

- (d) a family member of an individual who is a member of the GST group;
 - (e) a trustee of a trust that is a member of the GST group.
- (4) For a company that is a member of the GST group, each representative of a shareholder of the company is also a *permitted beneficiary* if:
- (a) for a company with 1 shareholder—the beneficiaries of the trust include a representative of the shareholder; and
 - (b) for a company with more than 1 shareholder—the beneficiaries of the trust include at least 2 beneficiaries who are representatives of different shareholders.
- (5) For a partnership that is a member of the GST group, each representative of a partner in the partnership is also a *permitted beneficiary* if the beneficiaries of the trust include at least 2 beneficiaries who are representatives of different partners.

48-10.03A Alternative membership requirements for groups of fixed trusts

- (1) This regulation sets out the alternative requirements mentioned in paragraph 48-10.03(1)(a) for a trust to be a member of a GST group that consists only of fixed trusts.

Note: The fixed trust must also satisfy other membership requirements set out in section 48-10 of the Act.

- (2) The fixed trust must be a member of the same 90% owned group as all other fixed trusts in that group.
- (3) For this regulation:
- (a) two fixed trusts are members of the same *90% owned group* if:
 - (i) the trustee of one of the trusts has at least a 90% stake in the other trust; or
 - (ii) the trustee of a third trust has at least a 90% stake in each of the two trusts; and
 - (b) the trustee of a fixed trust (the *head trust*) has *at least a 90% stake* in another fixed trust (the *sub-trust*) if the trustee:
 - (i) owns at least 90% of the issued units in the sub-trust (whether directly or indirectly through 1 or more interposed trusts or companies); and
 - (ii) has the right to receive at least 90% of any distribution of capital or income of the sub-trust.

48-10.04 Membership requirements for individuals

- (1) For subparagraph 48-10(1)(a)(ii) of the Act, this regulation sets out requirements that must be satisfied for an individual to be a member of a GST group.

Note: The individual must also satisfy other membership requirements set out in section 48-10 of the Act.

- (2) The individual must satisfy the requirements of subregulation (3), (4) or (5).

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- (3) The individual satisfies the requirements of this subregulation if, for at least 1 company that is a member of the GST group:
 - (a) the individual has at least a 90% stake in the company (worked out in accordance with section 190-5 of the Act as if the individual were a company); or
 - (b) each shareholder of the company is either the individual or a family member of the individual.
- (4) The individual satisfies the requirements of this subregulation if, for at least 1 partnership that is a member of the GST group, the partners of the partnership are either or both of the individual and family members of the individual.
- (5) The individual satisfies the requirements of this subregulation if, for at least 1 trust that is a member of the GST group:
 - (a) the beneficiaries of the trust include either or both of the individual and family members of the individual; and
 - (b) the trustee of the trust distributes income or capital of the trust only to permitted beneficiaries as described in regulation 48-10.03.

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Special rules mainly about particular ways entities are organised **Part 4-1**
GST joint ventures **Division 51**

Regulation 51-5.01

Division 51—GST joint ventures

51-5.01 Specified purposes for GST joint ventures (Act s 51-5)

- (1) For paragraph 51-5(1)(a) of the Act, each of the following is a purpose:
- (a) research and development;
 - (b) the provision of insurance, other than life insurance;
 - (c) fishing;
 - (d) agriculture;
 - (e) cultivation, or exploitation, of timber;
 - (f) design, or building, or maintenance, of residential or commercial premises;
 - (g) civil engineering, including the design, construction and maintenance of roads, railways, bridges, canals, dams, ports, harbours, airports and similar installations;
 - (h) generation, or transmission, or distribution, of electricity;
 - (i) transmission, or distribution, of water;
 - (j) receipt, or storage, or distribution, of oil and gas products;
 - (k) refining, or processing, of oil and gas products;
 - (l) beneficiation of minerals and primary metal production, including alloy production;
 - (m) charitable activities;
 - (n) transportation.
- (2) If a joint venture is a joint venture for more than 1 of the purposes specified in subregulation (1) or paragraph 51-5(1)(a) of the Act, the combination of those purposes is specified as a purpose.

Disclosed under FOI

Part 4-2 Special rules mainly about supplies and acquisitions

Division 70 Financial supplies (reduced credit acquisitions)

Regulation 70-5.01

Part 4-2—Special rules mainly about supplies and acquisitions

Division 70—Financial supplies (reduced credit acquisitions)

70-5.01 Objects of Division 70

The objects of this Division are:

- (a) to specify the reduced credit acquisitions that relate to making financial supplies that give rise to an entitlement to reduced input tax credits; and
- (b) to specify the percentage of the reduction of the input tax credits to which the financial supply provider is entitled.

70-5.01A Definition

In this Division, an enterprise is *closely related* to another enterprise if any of the following conditions apply:

- (a) both enterprises are carried on by the same entity;
- (b) one enterprise is carried on by a 100% subsidiary of the entity that carries on the other enterprise;
- (c) both enterprises are carried on by 100% subsidiaries of the same entity.

70-5.02 Acquisitions that attract reduced input tax credits: general (Act s 70-5)

- (1) For subsection 70-5(1) of the Act, an acquisition mentioned in subregulation (2) that relates to making financial supplies gives rise to an entitlement to a reduced input tax credit.
- (2) The following acquisitions (within the meaning of subsection 70-5(1) of the Act) are reduced credit acquisitions:

Item	Reduced credit acquisition
<i>Transaction banking and cash management services</i>	
1	The service of opening, issuing, closing, operating, maintaining, or performing a transaction in respect of an account by a financial supply facilitator, including by using the following facilities: (a) telephone banking; (b) Internet banking; (c) GiroPost
2	Processing services in relation to account information for account providers, including: (a) archives storage, retrieval and destruction services; and (b) statement processing and bulk mailing; and (c) processing and manipulation of information relating to accounts, including information about transactions to which item 7 applies

Disclosed under FOI

Special rules mainly about supplies and acquisitions **Part 4-2**
Financial supplies (reduced credit acquisitions) **Division 70**

Regulation 70-5.02

Item	Reduced credit acquisition
3	Acquisition of transaction cards by card account providers
4	Acquisition of passbooks, deposit and withdrawal forms and cheques and chequebooks by account providers
5	Processing services in relation to account applications for account providers, including providing credit reference and credit scoring assessment
	<i>Payment and fund transfers services</i>
6	Supplies to which the following payment system fees relate: (a) fees charged by the operator of a payment system to a participant in the system; (b) fees charged by a participant in a payment system to a third party in relation to access to the system; (c) fees charged between participants in a payment system
7	Processing, settling, clearing and switching transactions of the following kinds: (a) direct credit and debit; (b) other credit and debit transactions; (c) charge, credit and debit card transactions; (d) cheque; (e) electronic funds transfer; (f) ATM; (g) B-pay; (h) Internet banking; (i) GiroPost; (j) the SWIFT (Society for Worldwide Interbank Financial Telecommunications) Payment Delivery System
8	Services to a third party mentioned in paragraph 6(b), including: (a) processing of account data; and (b) electronic payment services
	<i>Securities transactions services</i>
9	Arrangement, by a financial supply facilitator, of the provision, acquisition or disposal of an interest in a security, including the following: (a) order placement and trade execution; (b) clearance and settlement of trades; (c) management of the issue of securities, including rights and bonus issues; (d) arranging flotations and privatisations; (e) arranging mergers and acquisitions; (f) arranging takeover bids; (g) performing a settlement, including issue of drafts and encashment; (h) other securities transactions, including lodgment, withdrawal and exchange control; (i) underwriting, except a matter that is described in the table in regulation 40-5.09

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Part 4-2 Special rules mainly about supplies and acquisitions

Division 70 Financial supplies (reduced credit acquisitions)

Regulation 70-5.02

Item	Reduced credit acquisition
10	Securities and unit registry services to securities and unit issuers, including: (a) managing portfolios of assets; and (b) allotting of share issues; and (c) making dividend payments; and (d) receiving application for issue of shares; and (e) performing a redemption or capital repayment; and (f) placing scrip orders; and (g) bonus issue; and (h) scrip settlement; and (i) client account processing; and (j) transaction processing and recording; and (k) handling investor inquiries
	<i>Loans services</i>
11	The following supplies by a financial supply facilitator: (a) loan agency services; (b) provision of a loan facility; (c) mortgage broking; (d) arranging syndicated loans; (e) introducing and broking
12	Lenders mortgage and title insurance
12A	Lenders mortgage reinsurance
13	Loan protection insurance
14	The following loan application, management and processing services: (a) loan origination and brokerage; (b) settlement and discharge of loans, including document preparation; (c) registration of loan documents; (d) credit reference assessment and credit scoring analysis; (e) valuations; (f) property title searches; (g) registration and certification of titles; (h) mortgage variations, including name changes; (i) adding and deleting caveats to titles
15	The following loan management services: (a) processing of repayments; (b) statement preparation; (c) filing and requisitioning of loan file records
	<i>Credit union services</i>

Disclosed under FOI

Special rules mainly about supplies and acquisitions **Part 4-2**
Financial supplies (reduced credit acquisitions) **Division 70**

Regulation 70-5.02

Item	Reduced credit acquisition
16	Supply to a credit union by: (a) an entity that is wholly owned by 2 or more credit unions; or (b) an entity that is wholly owned by an entity mentioned in paragraph (a) <i>Debt collection services</i>
17	The following debt collection services: (a) debt recovery; (b) litigation; (c) lodgment of documents; (d) by financial supply facilitator, managing the recovery of sums due by borrowers <i>Asset based finance services</i>
18	Arrangement by a financial supply facilitator of hire purchase to which item 8 in the table in regulation 40-5.09 applies <i>Trade finance services</i>
19	Trade finance transaction processing and recording
20	Trade finance remittance services <i>Capital markets and financial instruments services</i>
21	Arrangement by a financial supply facilitator of: (a) the supply of a derivative or the currency of a foreign country, or an agreement to buy or sell the currency; or (b) the sale of a forward contract; or (c) the supply of digital currency, or an agreement to buy or sell digital currency
22	Transaction processing, account maintenance and report generation services provided to: (a) suppliers of derivatives; or (b) suppliers of the currency of a foreign country, or an agreement to buy or sell the currency; or (c) suppliers of digital currency, or an agreement to buy or sell digital currency <i>Funds management services</i>
23	The following investment portfolio management functions, including those functions for superannuation schemes: (a) management of a client's asset portfolio; (b) management of an investment portfolio for a trust or superannuation fund; (c) acting as a trustee of a trust or superannuation fund; (d) acting as a single responsible entity; (e) asset allocation services

Disclosed under FOI

Part 4-2 Special rules mainly about supplies and acquisitions

Division 70 Financial supplies (reduced credit acquisitions)

Regulation 70-5.02

Item	Reduced credit acquisition
24	The following administrative functions in relation to investment funds, including those functions for superannuation schemes: (a) maintaining member and employer and trustee records and associated accounting; (b) processing of applications, contributions, benefits and distributions; (c) processing transfer between funds and trusts; (d) production and distribution of reports, statements and forms to members, employers and trustees; (e) handling of inquiries and complaints made by members; (f) archives storage, retrieval and destruction services; (g) statement processing and bulk mailing; (h) compliance with industry regulatory requirements, excluding taxation and auditing services; (i) processing and assessing claims under life insurance policies carried out on or after 1 July 2012
	<i>Insurance services</i>
25	Brokerage of general or life insurance
26	The following life insurance administration services provided for a life insurer: (a) maintaining policyholder records and associated accounting; (b) processing of premiums and benefits; (c) processing and assessing claims under policies; (d) production and distribution of reports, statements and forms to policyholders, including statement processing and bulk handling; (e) handling of inquiries and complaints made by policyholders; (f) archives storage, retrieval and destruction services; (g) processing and assessing applications; (h) compliance with industry regulatory requirements, excluding taxation and auditing services; (i) managing reinsurance requirements
	<i>Services remunerated by commission and franchise fees</i>
27	Supplies for which financial supply facilitators are paid commission by financial supply providers
28	Supplies provided by financial supply facilitators to franchisors, for which the facilitators are paid a franchise fee
	<i>Trustee and custodial services</i>
29	Trustee and custodial services (except safe custody of money, documents and other things), including: (a) transfer of cash without purchase, sale or transfer of assets, excluding cash delivery and collection from branches of Australian ADIs; and (b) undertaking and settling of securities transactions by a financial supply facilitator; and (c) collecting income and other payments; and (d) registration of interests and rights; and (e) proxy voting; and (f) exercise of options and warrants; and

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Special rules mainly about supplies and acquisitions **Part 4-2**
Financial supplies (reduced credit acquisitions) **Division 70**

Regulation 70-5.02

Item	Reduced credit acquisition
	(g) opening and maintaining accounts with Australian ADIs; (h) nominee services in relation to financial supplies
30	The following master custody services: (a) maintenance of accounting records; (b) taxation reporting; (c) mandate monitoring; (d) trade execution monitoring; (e) portfolio performance analysis; (f) risk management reporting
31	Single responsible entity services
	<i>Supplies to recognised trust schemes</i>
32	Supplies acquired by a recognised trust scheme, to the extent that: (a) the supplies are acquired on or after 1 July 2012; and (b) the supplies acquired are not: (i) a supply by way of sale of goods or supply of real property made by: (A) selling a freehold interest in land; or (B) selling a stratum unit; or (C) granting or selling a long-term lease; or (ii) a brokerage service covered by item 9 or 21; or (iii) a service covered by paragraph (a), (b) or (e) of item 23; or (iv) a service covered by paragraph (a), (b), (c), (d), (e), (f), (g) or (i) of item 24; or (v) a custodial service covered by item 29; or (vi) a service covered by item 30; or (vii) a service covered by item 33
	<i>Monitoring services</i>
33	Monitoring and reporting services (other than taxation and auditing services) that: (a) are acquired on or after 1 July 2012; and (b) are required for compliance with the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i>

- (3) However, something that is used in making a reduced credit acquisition is not, for that reason, a reduced credit acquisition.

Examples for subregulation (3):

- 1 Information technology services used for brokerage services
- 2 Labour hire services used for life insurance administration services

- (4) For this regulation:

debt interest has the same meaning as in the *Income Tax Assessment Act 1997*.

long-term lease—see the Dictionary in Part 6-3 of the Act.

managed investment scheme has the same meaning as in the *Corporations Act 2001*.

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Part 4-2 Special rules mainly about supplies and acquisitions

Division 70 Financial supplies (reduced credit acquisitions)

Regulation 70-5.02A

mortgage loan means a loan secured by a mortgage over real property.

mortgage scheme means a managed investment scheme that has at least 50% of its non-cash assets invested in mortgage loans or in one or more other mortgage schemes.

real property—see the Dictionary in Part 6-3 of the Act.

recognised trust scheme means a trust that has the following features:

- (a) the entity that acts in the capacity as trustee or responsibility entity of the trust, is carrying on, in its own capacity, an enterprise that includes making taxable supplies to the trust;
- (b) the trust is:
 - (i) a managed investment scheme, or part of a managed investment scheme, other than a securitisation entity or a mortgage scheme; or
 - (ii) an approved deposit fund within the meaning of the *Superannuation Industry (Supervision) Act 1993*; or
 - (iii) a pooled superannuation trust within the meaning of the *Superannuation Industry (Supervision) Act 1993*; or
 - (iv) a public sector superannuation scheme within the meaning of the *Superannuation Industry (Supervision) Act 1993*; or
 - (v) a regulated superannuation fund (other than a self managed superannuation fund) within the meaning of the *Superannuation Industry (Supervision) Act 1993*.

securitisation entity means a trust that has the following features:

- (a) the trust was established for the purpose of managing some or all of the economic risk associated with assets, liabilities or investments (whether the trust assumes the risk from another person or creates the risk itself);
- (b) the total value of the debt interests in the trust is at least 50% of the total value of the trust's assets;
- (c) the trust is an insolvency-remote special purpose entity according to criteria of an internationally recognised rating agency that are applicable to the circumstances of the trust (regardless of whether the agency has determined that the trust satisfies the criteria).

stratum unit—see the Dictionary in Part 6-3 of the Act.

70-5.02A Acquisitions that attract reduced input tax credits: certain offshore supplies (Act s 70-5)

- (1) For subsection 70-5 (1) of the Act, an acquisition mentioned in regulation 70-5.02B that relates to making financial supplies gives rise to an entitlement to a reduced input tax credit (is a **reduced credit acquisition**) if:
 - (a) the supply or transfer that gives rise to the acquisition (the **relevant supply**):
 - (i) consists in:

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Special rules mainly about supplies and acquisitions **Part 4-2**
Financial supplies (reduced credit acquisitions) **Division 70**

Regulation 70-5.02B

- (A) the transfer of something to an enterprise in the indirect tax zone (the *receiving enterprise*) from an enterprise outside the indirect tax zone (the *supplying enterprise*); or
 - (B) the doing of something for the receiving enterprise by the supplying enterprise; and
 - (ii) is a taxable supply because of section 84-5 of the Act (including supply that is not connected to the indirect tax zone because of section 84-15 of the Act); and
 - (b) the receiving enterprise and the supplying enterprise are closely related.
- (2) In determining the reduced credit acquisition, the price of the relevant supply is reduced by the amount passed on by the supplying enterprise to the receiving enterprise for any unabsorbed contribution from a third party (see regulation 70-5.02C).

70-5.02B Reduced credit acquisitions

- (1) The following acquisitions may be reduced credit acquisitions under regulation 70-5.02A:

Item	Reduced credit acquisition
<i>Senior executive management</i>	
1	Provision of senior management services, including: (a) corporate strategy and development; and (b) investment strategy and performance measurement functions; and (c) profit or business centre performance support
2	Provision of support systems associated with the provision of senior management services
<i>Human resources support</i>	
3	Provision of human resources support services, including: (a) general advice and planning; and (b) recruitment assistance; and (c) compensation advice and management; and (d) training
4	Processing and maintenance of employee data and files
<i>Corporate marketing and communications</i>	
5	Provision of corporate information and communication services
6	Provision of marketing administration and media support services
<i>Financial management</i>	

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Part 4-2 Special rules mainly about supplies and acquisitions

Division 70 Financial supplies (reduced credit acquisitions)

Regulation 70-5.02B

Item	Reduced credit acquisition
7	Performance of financial management service functions, including: (a) tax law compliance; and (b) corporate treasury operations; and (c) financial control (including statutory reporting and accounting policy); and (d) general ledger account reporting functions, including paying and processing invoices and payment instructions; and (e) internal audit functions; and (f) management reporting systems; and (g) setting intrabank transfer pricing policy; and (h) corporate insurance; and (i) centralised payroll functions
	<i>Supply procurement and management</i>
8	Process and management services for the procurement of supplies
	<i>Credit, operational and risk management</i>
9	Establishment and application of credit policy
10	Development, establishment and application of policies, monitoring systems and procedures to manage market and operational risk
11	Development and application of security processes related to fraud prevention
	<i>Relationship management</i>
12	Provision of supervision, monitoring and management services in support of client relationships
	<i>In-house legal services</i>
13	Provision of legal services, including: (a) company secretary functions; and (b) regulatory and legal compliance
	<i>Technology systems</i>
14	Provision of systems development and computer programming services
15	Maintenance and operation of transaction processing systems (including communications and applications systems)
16	Development and maintenance of disaster recovery systems
	<i>Business services</i>
17	Provision of transport, security and mail services
18	Property management

- (2) However, something that is used in making a reduced credit acquisition is not, for that reason, a reduced credit acquisition.

Examples for subregulation (2):

- 1 Consultant's services used in the provision of recruitment services.
- 2 Labour hire services used in the provision of security services.

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Special rules mainly about supplies and acquisitions **Part 4-2**
Financial supplies (reduced credit acquisitions) **Division 70**

Regulation 70-5.02C

70-5.02C Unabsorbed contribution

For subregulation 70-5.02A(2), the performance by a third party, on behalf of the supplying enterprise or a closely related enterprise of the supplying enterprise, of all or part of the relevant supply is an *unabsorbed contribution* if:

- (a) the amount paid or payable, or part of the amount paid or payable, by the supplying enterprise for the performance is passed on by the supplying enterprise to the receiving enterprise as part of the price of the relevant supply; and
- (b) the enterprise carried on by the third party is not closely related to the supplying enterprise; and
- (c) the thing that is involved in the performance by the third party retains, at the time of the relevant supply, the substance and character that it had when first purchased, for the purposes of the relevant supply, by an entity that carries on an enterprise that is closely related to the supplying enterprise.

Example for paragraph (c):

Legal advice that is given in the following circumstances is an unabsorbed contribution:

- the advice is acquired by the supplying enterprise from a third party service provider as part of the provision of in-house legal services by the supplying enterprise to its 100% subsidiary in the indirect tax zone;
- the external legal service provider is not closely related to the supplying enterprise;
- the advice is passed on to the 100% subsidiary in the indirect tax zone by the supplying enterprise;
- the amount paid or payable for the advice is passed on to the 100% subsidiary in the indirect tax zone as part of the price that the supplying enterprise charges for the provision of in-house legal services.

70-5.02D Prohibition against claiming twice

To avoid doubt, an entity is not entitled to a reduced input tax credit under regulations 70-5.02 and 70-5.02A for the same acquisition.

70-5.03 Percentage to which input tax credits are reduced (Act s 70-5)

For subsection 70-5(2) of the Act, the percentage to which the input tax credit is reduced is as follows:

- (a) for a reduced credit acquisition covered by item 32 of the table in subregulation 70-5.02(2)—55%;
- (b) for a reduced credit acquisition covered by item 32 and one or more other items of the table in subregulation 70-5.02 (2):
 - (i) to the extent that the acquisition is covered by item 32—55%; and
 - (ii) to the extent that the acquisition is not covered by item 32—75%;
- (c) for all other kinds of reduced credit acquisitions—75%.

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Part 4-2 Special rules mainly about supplies and acquisitions

Division 78 Insurance

Regulation 78-105.01

Division 78—Insurance

78-105.01 Statutory compensation schemes

For the definition of *statutory compensation scheme* in section 78-105 of the Act, each scheme or arrangement mentioned in Schedule 10 is specified.

Disclosed under FOI

Special rules mainly about supplies and acquisitions **Part 4-2**
Compulsory third party schemes **Division 79**

Regulation 79-35.01

Division 79—Compulsory third party schemes

79-35.01 Meaning of *CTP ancillary payment or supply*

For paragraph 79-35 (3)(b) of the Act, the following kinds of payments are specified:

- (a) a payment for medical treatment provided by a medical practitioner;
- (b) a payment for surgical treatment provided by a medical practitioner;
- (c) a payment for treatment provided by a registered nurse;
- (d) a payment for dental treatment;
- (e) a payment for hospital treatment;
- (f) a payment for ambulance services;
- (g) a payment for the conveyance of an injured person to obtain emergency medical treatment;
- (h) a payment for the cost of travel for a medical practitioner or registered nurse to provide medical treatment;
- (i) a payment of an amount determined under section 25A of the *Territory Insurance Office Act* of the Northern Territory;
- (j) a payment made according to a bulk-billing arrangement under section 54 of the *Motor Accidents Compensation Act 1999* of New South Wales.

Note: For section 79-35 of the Act, the payments mentioned in this regulation are to be made under a compulsory third party scheme. Section 79-35 sets out other requirements in relation to payments and supplies to which the Act relates.

Disclosed under FOI

Part 4-2 Special rules mainly about supplies and acquisitions

Division 81 Taxes, fees and charges

Regulation 81-10.01

Division 81—Taxes, fees and charges

81-10.01 Fees and charges which constitute consideration

- (1) For subsection 81-10(2) of the Act, the following kinds of Australian fee or charge are prescribed:
 - (a) a fee for parking a motor vehicle in a ticketed or metered parking space;
 - (b) a toll for driving a motor vehicle on a road;
 - (c) a fee for hire, use of, or entry to a facility, except for an entry fee to a national park;
 - (d) a fee for the use of a waste disposal facility;
 - (e) a fee for pre-lodgment advice if:
 - (i) the advice relates to an application to which subsection 81-10(4) of the Act applies; and
 - (ii) it is not compulsory to seek the advice;
 - (f) a fee or charge for the provision of information by an Australian government agency if the provision of the information is of a non-regulatory nature;
 - (g) a fee or charge for a supply of a non-regulatory nature;
 - (h) a fee or charge for a supply by an Australian government agency, where the supply may also be made by a supplier that is not an Australian government agency.
- (2) Despite subregulation (1), a fee or charge, the payment of which is covered by subsection 9-17(3) or (4) of the Act, is not a prescribed fee or charge.

Note: *Australian fee or charge* is defined in section 195-1 of the Act.

81-15.01 Fees and charges which do not constitute consideration

- (1) For section 81-15 of the Act, the following kinds of Australian fees and charges are prescribed:
 - (a) a fee or charge for:
 - (i) the kerbside collection of waste; or
 - (ii) the supply, exchange or removal of bins or crates used in connection with kerbside collection of waste;
 - (b) royalties charged in relation to natural resources;
 - (c) a fee or charge imposed on an industry to finance regulatory or other government activities connected with the industry;
 - (d) a fee or charge to compensate an Australian government agency for costs incurred by the agency in undertaking regulatory activities;
 - (e) a fee or charge imposed in relation to a court, tribunal, commission of inquiry or Sheriff's office;
 - (f) a fee or charge for a supply of a regulatory nature made by an Australian government agency;
 - (g) a fee or charge for entry to a national park;

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Special rules mainly about supplies and acquisitions **Part 4-2**
Taxes, fees and charges **Division 81**

Regulation 81-15.02

- (h) any other fee or charge:
 - (i) specified in the *A New Tax System (Goods and Services Tax) (Exempt Taxes, Fees and Charges) Determination 2011 (No. 1)*, as in force immediately before the commencement of Schedule 4 to the *Tax Laws Amendment (2011 Measures No. 2) Act 2011*; and
 - (ii) imposed before 1 July 2013.

- (2) In this regulation:

waste includes green waste and recyclables.

81-15.02 Fees and charges covered by regulations 81-10.01 and 81-15.01

- (1) The payment of a fee or charge covered by both paragraph 81-10.01(1)(g) and regulation 81-15.01, or the discharge of a liability to pay the fee or charge, is not to be treated as the provision of consideration.
- (2) The payment of a fee or charge covered by both paragraph 81-10.01(1)(a), (b), (c), (d), (e), (f) or (h) and regulation 81-15.01, or the discharge of a liability to pay the fee or charge, is to be treated as the provision of consideration.
- (3) However, payment of a fee or charge covered by both regulations 81-10.01 and 81-15.01, or the discharge of a liability to pay the fee or charge, is not to be treated as the provision of consideration if the fee or charge:
 - (a) is specified in the *A New Tax System (Goods and Services Tax) (Exempt Taxes, Fees and Charges) Determination 2011 (No. 1)*, as in force immediately before the commencement of Schedule 4 to the *Tax Laws Amendment (2011 Measures No. 2) Act 2011*; and
 - (b) was imposed before 1 July 2013.

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Part 4-7 Special rules mainly about returns, payments and refunds
Division 168 Tourist refund scheme

Regulation 168-5.01

Part 4-7—Special rules mainly about returns, payments and refunds

Division 168—Tourist refund scheme

Subdivision 168-1—Kinds of acquisitions

168-5.01 Acquisition

For paragraphs 168-5(1)(b) and (1A)(b) of the Act, the acquisition, in accordance with this Subdivision, of goods the supply of which was a taxable supply is a kind of acquisition.

- Note: Part of a person's eligibility for the tourist refund scheme involves making an acquisition:
- (a) the supply of which is a taxable supply; and
 - (b) that is of a kind specified in the regulations.

168-5.02 Goods to which Subdivision 168-1 applies

This Subdivision applies to goods the supply of which is a taxable supply, except any of the following goods:

- (a) tobacco;
- (b) tobacco products;
- (c) alcoholic beverages, except wine on which wine tax has been borne;
- (d) goods that have been partly consumed at the time at which the acquirer leaves the indirect tax zone.

168-5.03 Registered entity

The goods must have been acquired from a registered entity.

168-5.04 Purchase price

- (1) If 1 item has been acquired from a registered entity, the purchase price paid by the acquirer must be at least \$300.
- (2) If 2 or more items have been acquired from the same registered entity, the total purchase price paid by the acquirer for the items must be at least \$300.

168-5.05 Tax invoice

- (1) The acquisition may consist of one or more acquisitions from the same registered entity for which the acquirer holds one or more tax invoices.
- (2) Each acquisition must be accompanied by a tax invoice.

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Special rules mainly about returns, payments and refunds **Part 4-7**
Tourist refund scheme **Division 168**

Regulation 168-5.06

Subdivision 168-2—Departure from the indirect tax zone

168-5.06 Departure

For paragraphs 168-5(1)(c) and (1A)(e) of the Act, an acquirer may leave the indirect tax zone in any circumstances, except leaving the indirect tax zone in the course of the acquirer's employment as:

- (a) the person in charge or command of an aircraft or ship; or
- (b) a member of the crew of an aircraft or ship.

Note: Part of a person's eligibility for the tourist refund scheme involves leaving the indirect tax zone in circumstances specified in the regulations.

168-5.07 Place of departure

The acquirer must leave the indirect tax zone at an airport, or seaport, that has a TRS verification facility.

Subdivision 168-3—Export as accompanied baggage

168-5.08 Accompanied baggage

For paragraph 168-5 (1)(c) of the Act, an acquirer must export goods from the indirect tax zone as accompanied baggage in the circumstances set out in this Subdivision.

Note: Part of a person's eligibility for the tourist refund scheme involves exporting goods from the indirect tax zone as accompanied baggage in circumstances specified in the regulations.

168-5.09 Time of export

The goods must be exported within 60 days after the day on which they were acquired.

168-5.10 Verification of export

- (1) The acquirer must present to an officer of Customs, on request, at a TRS verification facility:
 - (a) the tax invoice relating to the goods; and
 - (b) as many of the following as are requested:
 - (i) the goods;
 - (ii) the acquirer's passport;
 - (iii) documents that confirm the acquirer's entitlement to leave the indirect tax zone on an aircraft or ship (for example, the acquirer's boarding pass or ticket).
- (2) However, if a TRS verification facility enables an acquirer to lodge a claim for payment, the acquirer may instead:
 - (a) complete a claim for payment; and

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Part 4-7 Special rules mainly about returns, payments and refunds

Division 168 Tourist refund scheme

Regulation 168-5.10A

- (b) include the acquirer's tax invoice with the claim; and
- (c) lodge the claim for payment at the TRS verification facility.

Note: A TRS verification facility may enable an acquirer to lodge a claim for payment, for example, by placing the claim in a drop box facility.

- (3) The acquirer must comply with subregulation (1) or (2):
 - (a) if the acquirer is leaving the indirect tax zone on an aircraft—at least 30 minutes before the aircraft's scheduled departure time; or
 - (b) if the acquirer is leaving the indirect tax zone on a ship—at least 60 minutes before the ship's scheduled departure time.
- Note: The scheduled departure time of an aircraft or ship may change, for example, because of a delay.
- (4) If the acquirer is unable to present goods to an officer of Customs on request, because the acquirer has checked in the goods as accompanied baggage, the tax invoice must be endorsed, in accordance with arrangements that have been agreed to by the Comptroller-General of Customs, with a statement to the effect that the goods have been checked in.

Subdivision 168-3A—Export by resident of an external Territory as unaccompanied baggage

168-5.10A Export of goods to an external Territory

For paragraph 168-5(1A)(e) of the Act, this Subdivision sets out the circumstances in which an acquirer must export goods to an external Territory, as unaccompanied baggage, for the purposes of being paid a refund of GST.

168-5.10B Time of export

The goods must be exported within 60 days after the day on which they were acquired.

168-5.10C Verification of export

- (1) The acquirer must present to an officer of Customs, on request, at a TRS verification facility:
 - (a) the tax invoice relating to the goods; and
 - (b) documentary evidence that the acquirer is an individual to whom paragraph 168-5(1A)(c) of the Act applies; and
 - (c) documentary evidence that:
 - (i) the goods have been exported to an external Territory; or
 - (ii) arrangements have been made for the exportation of the goods to an external Territory within 60 days after the day on which the goods were acquired.
- (2) However, if a TRS verification facility enables an acquirer to lodge a claim for payment, the acquirer may instead:

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- (a) complete a claim for payment; and
- (b) include the following documents with the claim:
 - (i) the acquirer's tax invoice;
 - (ii) documentary evidence referred to in paragraph (1)(b);
 - (iii) documentary evidence referred to in subparagraph (1)(c)(i) or (ii); and
- (c) lodge the claim for payment at the TRS verification facility.

Note: A TRS verification facility may enable an acquirer to lodge a claim for payment, for example, by placing the claim in a drop box facility.

(2A) The acquirer must comply with subregulation (1) or (2):

- (a) if the acquirer is leaving the indirect tax zone on an aircraft—at least 30 minutes before the aircraft's scheduled departure time; or
- (b) if the acquirer is leaving the indirect tax zone on a ship—at least 60 minutes before the ship's scheduled departure time.

Note: The scheduled departure time of an aircraft or ship may change, for example, because of a delay.

- (3) If the acquirer presents the evidence mentioned in subparagraph (1)(c)(ii), documentary evidence that the goods have been exported to an external Territory as described in that subparagraph must be given to the Comptroller-General of Customs within 90 days after the day on which the goods were acquired.

Subdivision 168-4—Proportion of amount of GST for payment in cash

168-5.11 Cash payment

- (1) For paragraphs 168-5(1)(e) and (1A)(g) of the Act, this regulation applies if:
 - (a) an amount of GST on a taxable supply is to be paid to an acquirer in cash; and
 - (b) the amount of GST is not an exact multiple of 5 cents.
- (2) If the amount of GST (the **base amount**) ends with an amount that is more than an exact multiple of 5 cents but less than 2.5 cents, or more than an exact multiple of 5 cents but less than 7.5 cents:
 - (a) the base amount is to be rounded down to the nearest exact multiple of 5 cents; and
 - (b) the result is the proportion of the base amount that is to be paid to the acquirer.
- (3) If the amount of GST (the **base amount**) ends with an amount that is 2.5 cents or more, but less than an exact multiple of 5 cents, or 7.5 cents or more, but less than an exact multiple of 5 cents:
 - (a) the base amount is to be rounded up to the nearest exact multiple of 5 cents; and
 - (b) the result is the proportion of the base amount that is to be paid to the acquirer.

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Division 168 Tourist refund scheme

Regulation 168-5.12

Subdivision 168-5—Documentation relating to entitlement to payment

168-5.12 Payment authority

- (1) This regulation applies if:
 - (a) an acquirer complies with subregulations 168-5.10(1) and (3) or subregulations 168-5.10C(1) and (2A) at the request of an officer of Customs; and
 - (b) the officer is satisfied that the acquirer is entitled to be paid an amount under section 168-5 of the Act.
- (2) The officer must give the acquirer a payment authority that includes:
 - (a) information identifying the acquirer; and
 - (b) the amount to which the acquirer is entitled.

Subdivision 168-6—Period and manner of payment

168-5.14 Processing payment authority given to officer of Customs at airport

- (1) For subsection 168-5(2) of the Act, this regulation applies if:
 - (a) an acquirer gives a payment authority to an officer of Customs at a TRS verification facility:
 - (i) that is located at an airport; and
 - (ii) at which facilities exist for making cash payments; and
 - (b) the amount to be paid to the acquirer (including any amount payable to the acquirer, in relation to the acquisition, under section 25-5 of the *A New Tax System (Wine Equalisation Tax) Act 1999*) is \$200 or less.

Note: Facilities for making cash payments to acquirers will only be available at some airports, and will not be available at seaports.

- (2) If it is practicable to pay cash to the acquirer, the amount must be paid to the acquirer, in Australian currency, before the acquirer leaves the indirect tax zone.
- (3) If it is not practicable to pay cash to the acquirer, an officer of Customs must make arrangements for the acquirer to lodge the payment authority at a TRS verification facility before leaving the indirect tax zone.

Examples:

- 1 A shortage of cash at the TRS verification facility.
- 2 Passenger congestion that would make it unreasonable to pay cash to each acquirer within the time available.

168-5.15 Processing payment authority lodged at a TRS verification facility

- (1) For subsection 168-5(2) of the Act, this regulation applies if an acquirer:
 - (a) lodges a payment authority at a TRS verification facility when the acquirer is leaving the indirect tax zone; and

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- (b) includes with the authority instructions for paying an amount to the acquirer by:
 - (i) crediting the amount to a credit card account or an Australian bank account; or
 - (ii) posting a cheque for the amount to a nominated address.
- (2) The acquirer must be paid the amount in accordance with the instructions given with the authority.
- (3) The payment must be made within 60 days after the payment authority is lodged.

168-5.16 Processing payment authority given to Comptroller-General of Customs

- (1) For subsection 168-5 (2) of the Act, this regulation applies if:
 - (a) an acquirer posts a payment authority, from a place outside the indirect tax zone, to the Comptroller-General of Customs; and
 - (b) the acquirer includes with the authority instructions for paying an amount to the acquirer by:
 - (i) crediting the amount to a credit card account or an Australian bank account; or
 - (ii) posting a cheque for the amount to a nominated address; and
 - (c) the Comptroller-General of Customs receives the authority not later than 30 days after the day on which the payment authority was given to the acquirer.
- (2) The acquirer must be paid the amount in accordance with the instructions given with the authority.
- (3) The payment must be made within 60 days after the Comptroller-General of Customs receives the payment authority.

168-5.17 Processing claim for payment

- (1) For subsection 168-5 (2) of the Act, this regulation applies if:
 - (a) an acquirer lodges a claim for payment in accordance with subregulations 168-5.10(2) and (3) or subregulations 168-5.10C(2) and (2A); and
 - (b) the acquirer includes with the claim instructions for paying an amount to the acquirer by:
 - (i) crediting the amount to a credit card account or an Australian bank account; or
 - (ii) posting a cheque for the amount to a nominated address; and
 - (c) the Comptroller-General of Customs, or a person authorised by the Comptroller-General of Customs, is satisfied that the acquirer is entitled to be paid an amount under section 168-5 of the Act.
- (2) The acquirer must be paid the amount in accordance with the instructions given with the claim.

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- (3) The payment must be made within 60 days after whichever is the later of the following:
- (a) the day the Comptroller-General of Customs receives the claim;
 - (b) if the Comptroller-General of Customs asks the acquirer to give information relating to the claim for payment—the day the Comptroller-General receives the information.

Part 6-3—Regulations relating to the Dictionary in the Act

Division 195—Dictionary

195-1.01 Compulsory third party schemes

For paragraph (b) of the definition of *compulsory third party scheme* in section 195-1 of the Act, each scheme or arrangement mentioned in Schedule 11 is specified.

195-1.02 First aid or life saving course

- (1) For subparagraph (b)(vi) of the definition of *first aid or life saving course* in section 195-1 of the Act, the qualification specified is a qualification that:
 - (a) is provided by a registered training organisation under the National Training Framework; and
 - (b) certifies the attainment of all the competencies mentioned in column 2 of the table in Schedule 12, with the unit codes mentioned in column 3 of Schedule 12.
- (2) It is not necessary for a person to obtain certification of attainment of all the competencies mentioned in column 2 of the table in Schedule 12 from the same registered training organisation.

Disclosed under FOI

Part 6-4 Transitional arrangements

Regulation 200-0.00

Part 6-4—Transitional arrangements

200-0.00 Operation of Schedule 15

Schedule 15 makes transitional arrangements in relation to amendments of these Regulations.

Disclosed under FOI

Medical aids and appliances Schedule 3

Schedule 3—Medical aids and appliances

(regulation 38-45.01)

Item	Category	Medical aids or appliances
1	Advanced wound care	alginate
2		hydro colloids
3		hydro gel
4		polyurethane film
5		polyurethane foam
6	Communication aids for people with disabilities	tracheostomy appliances and accessories
7		laryngotomy appliances and accessories
8	Continence	skin bond
9	Daily living for people with disabilities	artificial ears
10		nose prostheses
11	Hearing/speech	hearing loops
12	Infusion systems for the delivery of a measured dose of a medication	infusion sets
13		infusion pumps
14	Mobility of people with disabilities—physical: orthoses	compression garments
15	Mobility of people with disabilities—physical: prostheses	supplements and aids associated with mammary prostheses
16	Mobility of people with disabilities—physical: seating aids	postural support seating
17	Mobility of people with disabilities—physical: walking aids	accessories associated with walking frames or specialised ambulatory orthoses
18	Personal hygiene for people with disabilities	customised modifications and accessories for the aids or appliances mentioned in items 111 to 121 of Schedule 3 to the Act
19	Respiratory appliances	tilt tables
20	Stoma	stoma products including all bags and related equipment for patients with urostomies

Schedule 5—Rules for the supply of goods to a relevant traveller

(regulation 38-185.01)

1 Definitions and interpretation

- (1) In this Schedule, unless the contrary intention appears:

barrier copy, in relation to an invoice, means the copy of the invoice that is attached to the sealed package in which the goods to which the invoice relates are enclosed when the goods are passed into the possession of the purchaser.

CB declaration means an approved form of declaration that, under CB rule 2 in this Schedule, may be required by the Commissioner to be made by a relevant traveller purchasing goods under Table 2 of these Rules.

goods means goods purchased by a relevant traveller that will be exported with him or her on the intended flight or voyage.

SB declaration means an approved form of declaration that, under SB rule 2 in this Schedule, must be made by a relevant traveller purchasing goods under Table 1 of these Rules.

specified departure date, in relation to a purchaser of goods, means the date on which the purchaser will depart the indirect tax zone, according to the purchaser's travel ticket or other approved document shown at the time he or she takes possession of the goods.

- (2) In this Schedule:

- (a) **seller** includes an employee or agent of a seller; and
- (b) a requirement placed on a seller is satisfied by action of an employee or agent of the seller in meeting the requirement.

2 Sealed bag arrangements for liquids, aerosols, gels, creams and pastes

- (1) This clause applies if:

- (a) a person purchases a liquid, aerosol, gel, cream or paste (a **LAG product**) as a GST-free item; and
- (b) in relation to dealing with the LAG product, the person is required to comply with the requirements of any of the following rules of Table 1 in this Schedule:
 - (i) SB Rule 2;
 - (ii) SB Rules 7 to 10; and
- (c) the person deals with the LAG product in accordance with an arrangement (known as a "sealed bag arrangement") that:

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Rules for the supply of goods to a relevant traveller **Schedule 5**

- (i) is administered by the Australian Taxation Office and the Department administered by the Minister administering the *Migration Act 1958*; and
 - (ii) is consistent with the requirements of Subdivision 4.1.1A of the *Aviation Transport Security Regulations 2005*.
- (2) The supply of the LAG product to the person is taken to have complied with the rules in Table 1 in this Schedule.

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Schedule 5 Rules for the supply of goods to a relevant traveller

Table 1—Sealed Bag Rules

Goods taken possession of on the indirect tax zone side of the customs barrier and accompanying the traveller

[1] Rule number	[2] Summary of rule	[3] Details of rule	[4] What the Commissioner may approve	[5] Time when the requirements of the rule must be satisfied
SB Rule 1	Seller to sight travel documents	The seller of the goods must sight: (a) the purchaser's ticket for travel from the indirect tax zone to a foreign country; or (b) if appropriate, a document relating to the purchaser that is an approved document	A document of a kind that provides evidence that a purchaser is to travel from the indirect tax zone to a foreign country	Before the purchaser takes possession of the goods
SB Rule 2	Purchaser to sign an SB declaration	The purchaser must sign, and retain a copy of, a declaration (<i>SB declaration</i>) setting out, in the approved form: (a) details of the purchaser, the goods purchased and the proposed journey; and (b) if the following matters are true, a statement that the purchaser:	The form of the SB declaration, including additional information and statements to be included in the SB declaration	Before the purchaser takes possession of the goods

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Rules for the supply of goods to a relevant traveller Schedule 5

[1] Rule number	[2] Summary of rule	[3] Details of rule	[4] What the Commissioner may approve	[5] Time when the requirements of the rule must be satisfied
		(i) intends departing the indirect tax zone with the goods within 60 days of taking possession; (ii) will not interfere with the goods, the sealed package containing the goods or the copies of the invoice relating to the goods before submitting the sealed package to the seller in accordance with SB rule 7 or 8; (iii) will, in accordance with SB rule 7 or 8, submit the sealed package to the seller for removal of the barrier copy of the invoice; (iv) is aware of the penalty for making a false or misleading statement; and (c) any other information or statement required by the approved form		

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Schedule 5 Rules for the supply of goods to a relevant traveller

[1] Rule number	[2] Summary of rule	[3] Details of rule	[4] What the Commissioner may approve	[5] Time when the requirements of the rule must be satisfied
SB Rule 3	Seller to make an invoice	The seller must make an invoice: (a) at the time of the sale; and (b) in an approved form; and (c) in triplicate; and (d) containing a full description of the goods	(a) forms of invoice that render obvious an alteration to, or deletion from, the contents of the invoice; and (b) the information to be included in an invoice	Before the purchaser takes possession of the goods
SB Rule 4	Seller to retain copies of certain documents	The seller must retain: (a) the signed SB declaration; and (b) a copy of the invoice		
SB Rule 5	Time is limited within which the purchaser may take possession of the goods	The seller must not pass possession of the goods to the purchaser earlier than the commencement of the 60th calendar day before the specified departure date		
SB Rule 6	Purchaser may only take possession of goods in a sealed package	The seller must not pass possession of the goods to the purchaser unless: (a) the goods are enclosed in a package that is: (i) of an approved kind; and (ii) sealed by an approved method so that the goods cannot be removed from the package without the seal being broken; and (b) the barrier copy of the invoice is attached to the exterior of the package by an approved method; and	(a) the kind of package; and (b) the method of sealing the package; and (c) the method of attaching the barrier copy of the invoice to the package	Before the purchaser takes possession of the goods

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Rules for the supply of goods to a relevant traveller Schedule 5

[1] Rule number	[2] Summary of rule	[3] Details of rule	[4] What the Commissioner may approve	[5] Time when the requirements of the rule must be satisfied
		(c) the customer copy of the invoice is placed inside the package by a method that, if possible, enables the invoice to be read without need to break the seal of the package		
SB Rule 7	Invoice to be retrieved at the point of surrender of goods before the customs barrier	If, before the purchaser presents himself or herself to an officer of Customs as departing the indirect tax zone, the purchaser surrenders the sealed package to the carrier with whom the purchaser is to travel, the seller must retrieve the barrier copy of the invoice at the point of surrender of the package		At the time when the purchaser surrenders the sealed package
SB Rule 8	Invoice to be retrieved when beyond the customs barrier	If the sealed package is carried beyond the customs barrier by the purchaser in his or her own possession, the purchaser must then surrender the sealed package to the seller and the seller must retrieve the barrier copy of the invoice		After the purchaser presents himself or herself to an officer of Customs as departing the indirect tax zone and before departing on the flight or voyage
SB Rule 9	Sealed package to be examined	The seller must examine the sealed package when dealing with it under SB rule 7 or 8 to ascertain whether it: (a) remains sealed; or (b) has been tampered with		Immediately before the barrier copy of the invoice is retrieved under SB rule 7 or 8

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Schedule 5 Rules for the supply of goods to a relevant traveller

[1] Rule number	[2] Summary of rule	[3] Details of rule	[4] What the Commissioner may approve	[5] Time when the requirements of the rule must be satisfied
SB Rule 10	Tampering or other discrepancy in respect of sealed package is to be notified	The seller must notify the commissioner as soon as is practicable, in the approved form, if the seller becomes aware that: (a) a package is no longer sealed, or has otherwise been tampered with; or (b) the goods enclosed in the package are not the goods described in the customer copy of the invoice or the barrier copy of the invoice, as the case may be	The form in which notification is to be given	
SB Rule 11	Retrieved invoices must be validated	The seller must validate a retrieved barrier copy of an invoice: (a) as soon as is practicable; and (b) by the approved method	The method by which a retrieved barrier copy of an invoice is to be validated	
SB Rule 12	Invoices must be matched	The seller must reconcile the retrieved barrier copy of an invoice against the seller's copy of the invoice, by an approved method	Methods of reconciling a retrieved barrier copy of an invoice against the seller's copy of the invoice	

Disclosed under FOI

Rules for the supply of goods to a relevant traveller **Schedule 5**

Table 2—Customs Barrier Rules

Goods taken possession of on the outward departure side of the customs barrier and accompanying the traveller

[1] Rule number	[2] Summary of rule	[3] Details of rule	[4] What the Commissioner may approve	[5] Time when the requirements of the rule must be satisfied
CB Rule 1	Seller to sight travel documents	The seller of the goods must sight: (a) the purchaser's boarding pass or ticket for travel from the indirect tax zone to a foreign country; or (b) if appropriate, a document relating to the purchaser that is an approved document	(a) a document of a kind that provides evidence that the purchaser is to travel from the indirect tax zone to a foreign country; and (b) a document of a kind that provides evidence that the purchaser was beyond the customs barrier when taking possession of the goods	Before the purchaser takes possession of the goods

Disclosed under FOI

Schedule 5 Rules for the supply of goods to a relevant traveller

[1] Rule number	[2] Summary of rule	[3] Details of rule	[4] What the Commissioner may approve	[5] Time when the requirements of the rule must be satisfied
CB Rule 2	Purchaser may have to sign a CB declaration	If the purchaser pays for the goods on the indirect tax zone side of the customs barrier and will not take possession of the goods until he or she has passed through the customs barrier, he or she must sign, and retain a copy of, a declaration (<i>CB declaration</i>) setting out, in the approved form: (a) details of the purchaser, the goods purchased and the proposed journey; and (b) a declaration that he or she is aware of the penalty for making a false or misleading statement; and (c) any other information or statement required by the approved form	The form of the CB declaration and additional information and statements to be included in the CB declaration	Before the purchaser takes possession of the goods
CB Rule 3	Seller to make an invoice	The seller must make an invoice or receipt: (a) at the time of the sale; and (b) in an approved form; and (c) in duplicate; and (d) containing a full description of the goods	(a) forms of invoice that render obvious an alteration to, or deletion from, the contents of the invoice; and (b) the information to be included in an invoice	Before the purchaser takes possession of the goods

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Rules for the supply of goods to a relevant traveller Schedule 5

[1] Rule number	[2] Summary of rule	[3] Details of rule	[4] What the Commissioner may approve	[5] Time when the requirements of the rule must be satisfied
CB Rule 4	Seller to retain copies of certain documents	The seller must retain: (a) a copy of the invoice; and (b) the signed CB declaration (if any); and (c) if the goods are paid for on the indirect tax zone side of the customs barrier and pass into the possession of the purchaser only after the purchaser has passed through the customs barrier, an approved document giving evidence of that fact	A document of a kind that provides evidence that the goods have been passed into the possession of the purchaser after he or she has passed through the customs barrier	Before the purchaser takes possession of the goods

Disclosed under FOI

Schedule 7 Examples of financial supply

Part 1 Examples for item 1 in the table in regulation 40-5.09

Schedule 7—Examples of financial supply

(regulation 40-5.11)

Note 1: The examples are not to be taken as exhaustive.

Note 2: If an example is inconsistent with the description of the financial supply in the item in the table in regulation 40-5.09 to which the example relates, the description prevails.

See s 15AD of the *Acts Interpretation Act 1901*.

Part 1—Examples for item 1 in the table in regulation 40-5.09

Item	Example
1	Opening, keeping, operating, maintaining and closing of cheque, debit card, deposit and savings accounts for account holders
2	Cash collection, handling and sorting for account holders by account providers
3	ATM, electronic and telephone operation of accounts
4	Supply of standard cheque and deposit books for account holders
5	Supply of debit and smart cards
6	Cashing cheques and payment orders
7	Preparation, reconciliation and replacement of account statements
8	Notification of dishonoured transactions and unpaid fees
9	Stopping payment of cheques
10	Operation of authorised overdraft facilities
11	Unauthorised usage of overdraft facilities
12	Retention and storage of vouchers
13	Making information about accounts available
14	Garnishee of accounts
15	Recovery of Commonwealth, State and Territory fees, duties and taxes
16	Audit confirmation of accounts
17	Electronic funds transfer
18	Money transfer for account holders
19	Making disbursements for account holders

Disclosed under FOI

Examples of financial supply **Schedule 7**
Examples for item 2 in the table in regulation 40-5.09 **Part 2**

Part 2—Examples for item 2 in the table in regulation 40-5.09

Item	Example
1	Borrowing and lending, including establishing, maintaining and discharging loans
2	Opening, keeping, operating, maintaining and closing charge and credit card facilities
3	Supply of credit cards
4	Establishing, operating and terminating letters of credit
5	Right to an income stream under a securitisation arrangement
6	Recovery of Commonwealth, State and Territory fees, duties and taxes
7	Recovery of lenders mortgage insurance fees

Disclosed under FOI

Schedule 7 Examples of financial supply

Part 3 Examples for item 3 in the table in regulation 40-5.09

Part 3—Examples for item 3 in the table in regulation 40-5.09

Item	Example
1	A mortgage over land or premises
2	A mortgage over a chattel
3	A charge over the assets of a company
4	Documentation or valuation of the collateral or security for a credit or an advance
5	A mortgage over a share or bond

Disclosed under FOI

Examples of financial supply **Schedule 7**
Examples for item 6 in the table in regulation 40-5.09 **Part 4**

Part 4—Examples for item 6 in the table in regulation 40-5.09

Item	Example
1	A contract of insurance that provides for the payment of money on the death of a person or on the happening of a contingency dependent on the termination or continuance of human life
2	A contract of insurance that is subject to payment of premiums for a term dependent on the termination or continuance of human life
3	A contract of insurance for a term dependent on the termination or continuance of human life that provides for the payment of an annuity
4	A contract that provides for the payment of an annuity for a term not dependent on the continuance of a human life
5	A continuous disability policy within the meaning of section 9A of the <i>Life Insurance Act 1995</i>
6	A contract (whether or not a contract of insurance) that constitutes an investment account contract, or an investment-linked contract, within the meaning of section 14 of the <i>Life Insurance Act 1995</i>

Disclosed under FOI

Schedule 7 Examples of financial supply

Part 5 Examples for item 7 in the table in regulation 40-5.09

Part 5—Examples for item 7 in the table in regulation 40-5.09

Item	Example
1	A surety bond that is a guarantee
2	A performance bond

Disclosed under FOI

Examples of financial supply **Schedule 7**
Example for item 7A in the table in regulation 40-5.09 **Part 5A**

Part 5A—Example for item 7A in the table in regulation 40-5.09

Item	Example
1	An indemnity that is not a contract of insurance

Disclosed under FOI

Schedule 7 Examples of financial supply

Part 6 Example for item 8 in the table in regulation 40-5.09

Part 6—Example for item 8 in the table in regulation 40-5.09

Item	Example
1	The amount of interest, and associated fees and charges, in respect of the credit component under a hire purchase agreement entered into before 1 July 2012

Disclosed under FOI

Examples of financial supply **Schedule 7**
Examples for item 9 in the table in regulation 40-5.09 **Part 7**

Part 7—Examples for item 9 in the table in regulation 40-5.09

Item	Example
1	Foreign currency in cash form
2	Foreign currency drafts
3	Travellers cheques
4	International cheques
5	Collection, negotiation and endorsement of instruments (including cheques) for payment in foreign currency, including message services
6	Forward contracts for transactions to buy or sell foreign currency
7	Options to buy or sell foreign currency
8	Conversion of Australian currency into foreign currency and conversion of foreign currency into Australian currency

Disclosed under FOI

Schedule 7 Examples of financial supply

Part 8 Examples for item 10 in the table in regulation 40-5.09

Part 8—Examples for item 10 in the table in regulation 40-5.09

Item	Example
1	Bonds, stocks or debentures issued, or proposed to be issued, by a government entity
2	Shares in, or debentures or convertible notes of, a body
3	Subordinated notes
4	Structured notes
5	Units in a unit trust
6	Dealings in floating rate notes, commercial bills, commercial paper, extendable bill investments and other financial instruments
7	Interests in a partnership
8	Promissory notes and bills of exchange
9	Bank cheques
10	Warrants
11	Securities lending

Disclosed under FOI

Examples of financial supply **Schedule 7**
Examples for item 11 in the table in regulation 40-5.09 **Part 9**

Part 9—Examples for item 11 in the table in regulation 40-5.09

Item	Example
1	Forward contracts, futures contracts, swap contracts and options contracts the value of which depends on, or is derived from: (a) the price of debt securities or debt securities index values or interest rates; or (b) foreign exchange or currency values or currency index values; or (c) share or stock prices or equity index values; or (d) credit spreads or credit events, including: (i) default; and (ii) other forms of financial distress; and (iii) credit index values; or (e) macroeconomic indicators or variables; or (f) climatic events or indexes
2	Commodity derivatives that involve no option, right or obligation to delivery of the commodity, such as electricity derivatives
3	Reciprocal repurchase agreements
4	Options over input taxed supply of precious metals
5	Securities lending agreements
6	Initial and variation margins in respect of exchange traded futures contracts
7	Cash settlement of a derivative over the counter or on the exchange rather than the physical delivery of the underlying taxable assets

Disclosed under FOI

Schedule 8 Examples of supply that is not financial supply

Part 1 Examples for item 3 in the table in regulation 40-5.12

Schedule 8—Examples of supply that is not financial supply

(regulation 40-5.13)

Note 1: The examples are not to be taken as exhaustive.

Note 2: If an example is inconsistent with the description of the financial supply in the table in regulation 40-5.12 to which the example relates, the description in the table prevails.

See s 15AD of the *Acts Interpretation Act 1901*.

Part 1—Examples for item 3 in the table in regulation 40-5.12

Item	Example
1	Advice by a legal practitioner in the course of professional practice
2	Advice by an accountant in the course of professional practice
3	Taxation advice, including preparation of tax returns
4	Actuarial advice
5	Rating services for securitisation vehicles

Disclosed under FOI

Examples of supply that is not financial supply **Schedule 8**
Examples for item 4 in the table in regulation 40-5.12 **Part 2**

Part 2—Examples for item 4 in the table in regulation 40-5.12

Item	Example
1	Supply of services by a payment system operator to a participant in the system for which the following fees are charged by the operator: (a) membership fees; (b) processing fees; (c) service fees; (d) marketing fees; (e) risk management fees; (f) multi-currency fees
2	Access to a payment system, and supply of other related services by a participant in the system to a third party
3	Supply of a service by one participant in a payment system to another participant in the system in relation to charge, credit and debit card transactions
4	Processing, settling, clearing and switching transactions of the following kinds: (a) direct credit and debit; (b) other debit and credit transactions; (c) charge, credit and debit card transactions; (d) cheque; (e) electronic funds transfer; (f) ATM; (g) B-pay; (h) Internet banking; (i) GiroPost; (j) SWIFT (Society for Worldwide Interbank Financial Telecommunications) Payment Delivery System; (k) an approved RTGS (real time gross settlement) system; (l) Austraclear
5	Supply to a participant in a payment system by the operator of the system of the following services: (a) processing of account data; (b) electronic payment services

Disclosed under FOI

Schedule 8 Examples of supply that is not financial supply

Part 3 Examples for item 7 in the table in regulation 40-5.12

Part 3—Examples for item 7 in the table in regulation 40-5.12

Item	Example
1	Deliverable wool futures and forward contracts
2	Deliverable wheat futures and forward contracts
3	Options over a contract mentioned in item 1 or 2

Disclosed under FOI

Examples of supply that is not financial supply **Schedule 8**
Example for item 10 in the table in regulation 40-5.12 **Part 4**

Part 4—Example for item 10 in the table in regulation 40-5.12

Item	Example
1	Health insurance provided as part of a health insurance business (as defined in subsection 67 (4) of the <i>National Health Act 1953</i>)

Disclosed under FOI

Schedule 8 Examples of supply that is not financial supply

Part 5 Examples for item 12 in the table in regulation 40-5.12

Part 5—Examples for item 12 in the table in regulation 40-5.12

Item	Example
1	Managing the assets or liabilities of an entity
2	Acting as the trustee of an entity
3	Investment portfolio administration, including: (a) maintaining account holder records and associated accounting; and (b) processing of contributions and returns; and (c) storage and retrieval of archives; and (d) statement processing and bulk mailing

Disclosed under FOI

Examples of supply that is not financial supply **Schedule 8**
Examples for item 15 in the table in regulation 40-5.12 **Part 6**

Part 6—Examples for item 15 in the table in regulation 40-5.12

Item	Example
1	Acting as a trustee of a trust or other entity
2	Acting as a trustee under a will or settlement

Disclosed under FOI

Schedule 8 Examples of supply that is not financial supply

Part 7 Example for item 20 in the table in regulation 40-5.12

Part 7—Example for item 20 in the table in regulation 40-5.12

Item	Example
1	The credit component under a hire purchase agreement entered into on or after 1 July 2012 where the consideration is the amount of interest and associated fees and charges

Disclosed under FOI

Statutory compensation schemes Schedule 10

Schedule 10—Statutory compensation schemes

(regulation 78-105.01)

Item	Scheme or arrangement	Australian law
1	Commonwealth government employees workers' compensation insurance scheme	<i>Safety, Rehabilitation and Compensation Act 1988 (Cth)</i>
2	ACT government employees workers' compensation insurance scheme	<i>Safety, Rehabilitation and Compensation Act 1988 (Cth)</i>
2A	Military rehabilitation and compensation scheme	<i>Military Rehabilitation and Compensation Act 2004 (Cth)</i>
3	NSW Treasury Managed Fund	<i>Government Insurance Office (Privatisation) Act 1991 (NSW)</i>
4	Sporting injuries insurance scheme	<i>Sporting Injuries Insurance Act 1978 (NSW)</i> <i>Motor Accidents Compensation Act 1999 (NSW)</i>
6	WorkCover scheme	<i>Workers Compensation Act 1987 (NSW)</i> <i>Workplace Injury Management and Workers' Compensation Act 1998 (NSW)</i>
8	General insurance schemes provided by the Victorian Managed Insurance Authority	Victorian Managed Insurance Authority Act 1996 (Vic)
9	Workers' compensation insurance scheme	Accident Compensation Act 1985 (Vic) Accident Compensation (WorkCover Insurance) Act 1993 (Vic) Workers Compensation Act 1958 (Vic)
10	Statutory insurance scheme	<i>Queensland Building and Construction Commission Act 1991 (Qld)</i>
11	Workers' compensation scheme	<i>WorkCover Queensland Act 1996 (Qld)</i>
13	Workers' compensation scheme	<i>Workers' Compensation and Rehabilitation Act 1981 (WA)</i>
14	RiskCover Fund	<i>Insurance Commission of Western Australia Act 1986 (WA)</i>
16	Workers' rehabilitation and compensation scheme	<i>Workers Rehabilitation and Compensation Act 1986 (SA)</i>
18	WorkCover scheme	<i>Workers' Compensation Act 1951 (ACT)</i> <i>Workers' Compensation Supplementation Fund Act 1980 (ACT)</i>
19	Workers' compensation insurance scheme	<i>Workers' Compensation Act 1951 (ACT)</i>
22	Workers' compensation insurance scheme	<i>Workers Rehabilitation and Compensation Act 1988 (Tas)</i>

Disclosed under FOI

Schedule 11 Compulsory third party schemes

Schedule 11—Compulsory third party schemes

(regulation 195-1.01)

Item	Scheme or arrangement	Australian law
1	Compensation scheme for victims of motor accidents	<i>Motor Accidents Act 1988</i> (NSW) <i>Motor Accidents Compensation Act 1999</i> (NSW)
2	Compulsory third party transport accident compensation scheme	Transport Accident Act 1986 (Vic)
3	Statutory insurance scheme	<i>Motor Accident Insurance Act 1994</i> (Qld)
4	Compulsory third party insurance scheme	<i>Motor Vehicle (Third Party Insurance) Act 1943</i> (WA)
5	Third party insurance scheme	<i>Motor Vehicles Act 1959</i> (SA)
6	Compulsory third party insurance scheme	<i>Road Transport (Third-Party Insurance) Act 2008</i> (ACT)
7	Motor accidents compensation scheme	<i>Motor Accidents (Compensation) Act</i> (NT)
8	Motor accidents insurance scheme	<i>Motor Accidents (Liabilities and Compensation) Act 1973</i> (Tas)

Disclosed under FOI

First aid or life saving course **Schedule 12**

Schedule 12—First aid or life saving course

(regulation 195-1.02)

Item	Competency	Competency unit code within the National Training Framework
1	Respond to aquatic emergency using basic water rescue techniques	(a) SRC AQU 003A; or (b) SRC AQU 003B
2	Apply the principles of movement in water to aquatic activities	(a) SRC AQU 008A; or (b) SRC AQU 008B
3	Instruct water familiarisation, buoyancy and mobility skills	(a) SRC AQU 009A; or (b) SRC AQU 009B
4	Instruct water safety and survival skills	(a) SRC AQU 010A; or (b) SRC AQU 010B
5	Instruct the strokes of swimming	(a) SRC AQU 011A; or (b) SRC AQU 011B
6	Operate in accordance with accepted instructional practices, styles and legal and ethical responsibilities	(a) SRC CRO 007A; or (b) SRC CRO 007B

Disclosed under FOI

Schedule 15 Transitional arrangements

Part 1 Amendments made by A New Tax System (Goods and Services Tax) Amendment Regulation 2013 (No. 1)

Clause 101

Schedule 15—Transitional arrangements

Note: See regulation 200-0.00.

Part 1—Amendments made by A New Tax System (Goods and Services Tax) Amendment Regulation 2013 (No. 1)

101 Operation of Schedule 1

The amendments of these Regulations made by Schedule 1 to the *A New Tax System (Goods and Services Tax) Amendment Regulation 2013 (No. 1)* apply in relation to an acquisition of goods that occurs 60 days or more after the day those regulations commence.

Disclosed under FOI

Transitional arrangements **Schedule 15**
Amendments made by the Customs and Other Legislation Amendment (Australian Border Force)
Regulation 2015 **Part 2**

Clause 102

Part 2—Amendments made by the Customs and Other Legislation Amendment (Australian Border Force) Regulation 2015

102 Verification of export

- (1) Arrangements agreed to by the Chief Executive Officer of Customs as mentioned in subregulation 168-5.10(4) of these Regulations and in force immediately before 1 July 2015 continue in force on and after that day as if they had been arrangements agreed to by the Comptroller-General of Customs.
- (2) Documentary evidence given to the Chief Executive Officer of Customs under subregulation 168-5.10C(3) of these Regulations before 1 July 2015 is taken on and after that day to have been documentary evidence given to the Comptroller-General of Customs.

103 Processing payment authority given to Chief Executive Officer of Customs

- (1) A payment authority mentioned in paragraph 168-5.16(1)(a) of these Regulations that was posted to the Chief Executive Officer of Customs before 1 July 2015 is taken on and after that day to have been posted to the Comptroller-General of Customs.
- (2) A payment authority mentioned in paragraph 168-5.16(1)(a) of these Regulations that was received by the Chief Executive Officer of Customs before 1 July 2015 is taken on and after that day to have been received by the Comptroller-General of Customs.

104 Processing claim for payment

- (1) If, before 1 July 2015, the Chief Executive Officer of Customs was satisfied of the matter mentioned in paragraph 168-5.17(1)(c) of these Regulations, then on and after that day the Comptroller-General of Customs is taken to be satisfied of the matter.
- (2) An authorisation in force under paragraph 168-5.17(1)(c) of these Regulations immediately before 1 July 2015 is taken on and after that day to be an authorisation by the Comptroller-General of Customs in force under that paragraph.
- (3) A claim mentioned in subregulation 168-5.17(3) of these Regulations that was received by the Chief Executive Officer of Customs before 1 July 2015 is taken on and after that day to have been received by the Comptroller-General of Customs.

Disclosed under FOI

Schedule 15 Transitional arrangements

Part 2 Amendments made by the Customs and Other Legislation Amendment (Australian Border Force) Regulation 2015

Clause 105

105 Sealed bag arrangements for liquids, aerosols, gels, creams and pastes

The repeal and substitution of clause 2 of Schedule 5 made by the *Customs and Other Legislation Amendment (Australian Border Force) Regulation 2015* applies in relation to purchases on or after 1 July 2015.

Disclosed under FOI

Transitional arrangements **Schedule 15**
Amendments made by the Tax and Superannuation Laws Amendment (2016 Measures No. 1)
Regulation 2016 **Part 3**

Clause 106

Part 3—Amendments made by the Tax and Superannuation Laws Amendment (2016 Measures No. 1) Regulation 2016

106 Operation of Schedule 1

The amendments of these Regulations made by Schedule 1 to the *Tax and Superannuation Laws Amendment (2016 Measures No. 1) Regulation 2016* apply in relation to working out net amounts for tax periods starting on or after 1 July 2017.

Disclosed under FOI

Schedule 15 Transitional arrangements

Part 5 Amendments made by the Treasury Laws Amendment (2017 Measures No. 2) Regulations 2017

Clause 107

Part 5—Amendments made by the Treasury Laws Amendment (2017 Measures No. 2) Regulations 2017

107 Claim for payment

- (1) The amendments made by Schedule 2 to the *Treasury Laws Amendment (2017 Measures No. 2) Regulations 2017* apply on and after the start day in relation to a claim for payment under Division 168:
 - (a) made on or after that start day; or
 - (b) made, but not finally dealt with, before that start day.

- (2) In this clause:

Division 168 means Division 168 of these Regulations and includes that Division as affected by Division 25 of the *A New Tax System (Wine Equalisation Tax) Regulations 2000*.

start day means the first day of the month following the day that Schedule 2 to the *Treasury Laws Amendment (2017 Measures No. 2) Regulations 2017* commences.

Disclosed under FOI

Transitional arrangements **Schedule 15**

Amendments made by the Treasury Laws Amendment (2017 Measures No. 3) Regulations 2017 **Part 6**

Clause 108

Part 6—Amendments made by the Treasury Laws Amendment (2017 Measures No. 3) Regulations 2017

108 Operation of Schedule 1

The amendments of these Regulations made by Schedule 1 to the *Treasury Laws Amendment (2017 Measures No. 3) Regulations 2017* apply in relation to supplies or payments made on or after 1 July 2017.

Dictionary

(regulation 3)

account:

- (a) means an account mentioned in item 1 in the table in regulation 40-5.09; and
- (b) includes an account in relation to which the account holder (the *customer*) has the right:
 - (i) to have the account maintained by the account provider (the *provider*); and
 - (ii) to repayment of the amount credited to the account by the provider; and
 - (iii) to require the provider to act on directions by the customer that are in accordance with the arrangements, or any agreement, between the provider and the customer in relation to operation of the account.

acquirer means a person who acquires goods the supply of which is a taxable supply.

acquisition, in relation to the provision or disposal of an interest—see regulation 40-5.05.

Act means *A New Tax System (Goods and Services Tax) Act 1999*.

Approved entity means an entity with an approval under regulation 33-15.03 to make deferred payments of assessed GST on taxable importations.

APRA means the Australian Prudential Regulation Authority.

Australian ADI has the meaning given by section 9 of the *Corporations Act 2001*.

charge card means an article, commonly known as a charge card, for use in obtaining cash, goods or services by incurring a debt with the issuer of the card.

Comptroller-General of Customs means the person who is the Comptroller-General of Customs in accordance with subsection 11(3) or 14(2) of the *Australian Border Force Act 2015*.

credit card:

- (a) means an article commonly known as a credit card and any similar article for use in obtaining cash, goods or services on credit; and
- (b) includes an article commonly issued by persons conducting business to their customers, or prospective customers, for use in obtaining goods or services from the business on credit.

credit union means:

- (a) an Australian ADI listed on the APRA website as a credit union; or

- (b) an Australian ADI listed on the APRA website as an Australian-owned bank that:
 - (i) on or before 1 July 2011 was listed on the APRA website as a credit union; and
 - (ii) retains mutuality; and
 - (iii) was listed on the APRA website as a credit union at all times in the period between 1 July 2011 and the time it was listed on the APRA website as an Australian-owned bank; or
- (c) the Cairns Penny Savings & Loans Limited (ACN 087 933 757).

Note: APRA publishes a list of Australian ADIs on its website at www.apra.gov.au.

Debit card means an article intended for use by an entity in obtaining access to an account held by the entity for the purpose of withdrawing or depositing cash or obtaining goods or services.

derivative means an agreement or instrument the value of which depends on, or is derived from, the value of assets or liabilities, an index or a rate.

disposal—see regulation 40-5.04.

electronic payment see the Dictionary in Part 6-3 of the Act.

enter goods for home consumption has the meaning given in the *Customs Act 1901*.

entity see section 184-1 of the Act.

financial supply facilitator—see regulation 40-5.07.

financial supply provider—see regulation 40-5.06.

incidental financial supply—see regulation 40-5.10.

interest—see regulation 40-5.02.

National Training Framework means a nationally recognised system of training packages, training qualifications and registered training organisations.

officer of Customs has the meaning given by subsection 4(1) of the *Customs Act 1901*.

Outstanding tax-related liability has the meaning given in the Dictionary in section 995-1 of the *Income Tax Assessment Act 1997*.

participant, in a payment system, means a person who is a participant in the system in accordance with the rules governing the operations of the system.

payment system means a funds transfer system that facilitates the circulation of money or digital currency, including any procedures that relate to the system.

provision—see regulation 40-5.03.

Disclosed under FOI

Dictionary

registered training organisation means a training organisation registered under the National Training Framework.

relevant traveller see the Dictionary in Part 6-3 of the Act.

securities has the meaning given by subsection 92(1) of the *Corporations Act 2001*.

smart card means an article, commonly known as a smart card, that has the capacity to keep a record of financial transactions using the article.

tourist refund scheme means the arrangements set out in section 168-5 of the Act.

transaction card means a debit card, charge card, credit card or smart card.

TRS verification facility, in relation to an acquirer who is leaving the indirect tax zone from an airport, or seaport, at which the tourist refund scheme is administered means the place, at the airport or seaport, at which the scheme is administered.

Note: The tourist refund scheme will not be administered at every airport and seaport in Australia.

Endnotes

Endnote 1—About the endnotes

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

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 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.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment 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.

Disclosed under FOI

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Disclosed under FOI

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Number and year	FRLI registration or gazettal	Commencement	Application, saving and transitional provisions
245, 1999	21 Oct 1999	1 July 2000 (r 2)	
49, 2000	19 Apr 2000	19 Apr 2000 (r 2)	—
77, 2000	26 May 2000	26 May 2000 (r 2)	—
89, 2000	1 June 2000	1 June 2000 (r 2)	—
110, 2000	15 June 2000	Sch 1: 15 June 2000 (r 2(a)) Remainder: 16 June 2000 (r 2(b))	—
268, 2000	28 Sept 2000	28 Sept 2000 (r 2)	—
363, 2000	20 Dec 2000	20 Dec 2000 (r 2)	—
48, 2001	16 Mar 2001	1 July 2000 (r 2)	—
126, 2001	6 June 2001	1 Dec 2001 (r 2)	—
88, 2002	9 May 2002	1 July 2000 (r 2)	—
37, 2003	27 Mar 2003	1 Apr 2003 (r 2)	—
73, 2003	28 Apr 2003	1 May 2003 (r 2)	—
190, 2003	24 July 2003	1 July 2000 (r 2)	—
218, 2004	15 July 2004	15 July 2004 (r 2)	—
276, 2004	26 Aug 2004	1 July 2004 (r 2)	—
175, 2007	26 June 2007 (F2007L01756)	1 July 2007 (r 2)	—
206, 2007	29 June 2007 (F2007L01975)	1 July 2007 (r 2)	—
258, 2007	27 Aug 2007 (F2007L02640)	28 Aug 2007 (r 2)	—
29, 2009	27 Feb 2009 (F2009L00679)	3 Mar 2009 (r 2)	—
385, 2009	16 Dec 2009 (F2009L04488)	1 July 2010 (r 2)	—
206, 2010	12 July 2010 (F2010L01945)	1 July 2010 (r 2)	r 3
207, 2010	12 July 2010 (F2010L01951)	1 July 2010 (r 2)	—
108, 2011	20 June 2011 (F2011L01077)	21 June 2011 (r 2)	—
127, 2011	30 June 2011 (F2011L01361)	1 July 2011 (r 2)	—
87, 2012	29 May 2012 (F2012L01102)	1 July 2012 (r 2)	—

Disclosed under FOI

Endnotes

Endnote 3—Legislation history

Number and year	FRLI registration or gazettal	Commencement	Application, saving and transitional provisions
148, 2012	28 June 2012 (F2012L01405)	1 July 2012 (r 2)	—
149, 2012	2 July 2012 (F2012L01482)	3 July 2012 (r 2)	—
215, 2012	3 Sept 2012 (F2012L01826)	1 July 2011 (r 2)	—
6, 2013	15 Feb 2013 (F2013L00200)	16 Feb 2013 (r 2)	—
7, 2013	15 Feb 2013 (F2013L00202)	16 Feb 2013 (s 2)	—
126, 2013	17 June 2013 (F2013L01020)	Sch 1 (items 1–4): 16 Feb 2013 (s 2 item 2) Sch 2 (items 1, 2): 18 June 2013 (s 2 item 3)	—
279, 2013	16 Dec 2013 (F2013L02123)	Sch 1 (item 23): 17 Dec 2013 (s 2)	—
39, 2015	30 Mar 2015 (F2015L00367)	Sch 1 (items 84–110): 31 Mar 2015 (s 2 item 3)	—
90, 2015	19 June 2015 (F2015L00854)	Sch 2 (items 1–21): 1 July 2015 (s 2(1) item 2)	—
Name	Registration	Commencement	Application, saving and transitional provisions
Tax and Superannuation Laws Amendment (2016 Measures No. 1) Regulation 2016	15 Apr 2016 (F2016L00518)	Sch 1: 1 July 2016 (s 2(1) item 2)	—
Treasury Laws Amendment (2016 Measures No. 3) Regulation 2016	17 Oct 2016 (F2016L01625)	Sch 1: 28 Oct 2016 (s 2(1) item 2)	—
Corporations and Other Legislation Amendment (Insolvency Law Reform) Regulation 2016	13 Dec 2016 (F2016L01926)	Sch 1 (items 3, 4): 1 Mar 2017 (s 2(1) item 2)	—
Treasury Laws Amendment (2017 Measures No. 2) Regulations 2017	17 Nov 2017 (F2017L01491)	Sch 2: 18 Nov 2017 (s 2(1) item 1)	—
Treasury Laws Amendment (2017 Measures No. 3) Regulations 2017	4 Dec 2017 (F2017L01568)	Sch 1: 1 July 2017 (s 2(1) item 2)	—

Disclosed under FOI

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
r 2	rep LA s 48D
r 3	am 2000 No 77
Part 2-5	
Part 2-5	ad 2007 No 206
Division 23	
r 23-15.01	ad 2007 No 206
r 23-15.02	ad 2007 No 206
Part 2-6	
Part 2-6	rs 2000 No 77
r 29-70	rep 2000 No 77
r 29-71	rep 2000 No 77
Division 29	
Division 29	ad 2000 No 77
Subdivision 29-C	
Subdivision 29-C	ad 2000 No 77
r 29-70.01	ad 2000 No 77
	rep 2010 No 206
r 29-70.02	ad 2000 No 77
	rep 2010 No 206
r 29-80.01	ad 2007 No 175
r 29-80.02	ad 2009 No 385
Part 2-7	
Part 2-7	ad 2000 No 89
Division 33	
Division 33	ad 2000 No 89
r 33-15.01	ad 2000 No 89
	am 2000 No 268; No 279, 2013
r 33-15.02	ad 2000 No 89
	am No 279, 2013
r 33-15.03	ad 2000 No 89
	am F2016L01926
r 33-15.04	ad 2000 No 89
	am No 279, 2013
r 33-15.05	ad 2000 No 89
r 33-15.06	ad 2000 No 89
	am 2000 No 268; No 279, 2013; No 90, 2015

Disclosed under FOI

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
r 33-15.07.....	ad 2000 No 89 am No 279, 2013
r 33-15.08.....	ad 2000 No 89
r 33-15.09.....	ad 2000 No 89
Part 3-1	
Division 38	
Division 38.....	ad 2000 No 110
Subdivision 38-A	
Subdivision 38-A.....	ad 2000 No 110
r 38-3.01.....	ad 2000 No 110
r 38-3.02.....	ad 2001 No 126
Subdivision 38-B	
Subdivision 38-B.....	ad 2000 No 110
r 38-45.01.....	ad 2000 No 110
Subdivision 38-E	
Subdivision 38-E heading.....	rs No 39, 2015
Subdivision 38-E.....	ad 2000 No 110
r 38-185.01.....	ad 2000 No 110
Part 3-1.....	rep 2000 No 77
r 40-5 to 40-17.....	rep 2000 No 77
Part 3-1.....	ad 2000 No 77
Division 40	
Division 40.....	ad 2000 No 77
Subdivision 40-A	
Subdivision 40-A.....	ad 2000 No 77
r 40-5.01.....	ad 2000 No 77
r 40-5.02.....	ad 2000 No 77
r 40-5.03.....	ad 2000 No 77
r 40-5.04.....	ad 2000 No 77
r 40-5.05.....	ad 2000 No 77
r 40-5.06.....	ad 2000 No 77
r 40-5.07.....	ad 2000 No 77
r 40-5.08.....	ad 2000 No 77
r 40-5.09.....	ad 2000 No 77 am 2000 No 363; 2004 No 218; 2009 No 29; 2011 No 108; 2012 No 87; No 39, 2015; F2016L00518; F2017L01568
r 40-5.10.....	ad 2000 No 77
r 40-5.11.....	ad 2000 No 77 am 2000 No 110

Disclosed under FOI

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
r 40-5.12	ad 2000 No 77 am 2012 No 87; F2017L01568
r 40-5.13	ad 2000 No 77 am 2000 No 110
Part 4-1	
Part 4-1	ad 2000 No 49
Division 48	
Division 48	ad 2000 No 49
Subdivision 48-A	
Subdivision 48-A	ad 2000 No 49
r 48-10.01	ad 2000 No 49 am 2003 No 37
r 48-10.01A	ad 2003 No 37
r 48-10.02	ad 2000 No 49 am 2003 No 37
r 48-10.03	ad 2000 No 49 am 2000 No 268; 2003 No 37
r 48-10.03A	ad 2003 No 37
r 48-10.04	ad 2000 No 268 am 2003 No 37
Division 51	
Division 51	ad 2000 No 77
r 51-5.01	ad 2000 No 77 am 2003 No 73
Part 4-2	
Part 4-2	rep 2000 No 77
r 70-1 to 70-3	rep 2000 No 77
Part 4-2	ad 2000 No 77
Division 70	
Division 70	ad 2000 No 77
r 70-5.01	ad 2000 No 77
r 70-5.01A	ad 2001 No 48
r 70-5.02	ad 2000 No 77 am 2001 No 48; 2012 No 87; F2017L01568
r 70-5.02A	ad 2001 No 48 am No 39, 2015
r 70-5.02B	ad 2001 No 48
r 70-5.02C	ad 2001 No 48 am No 39, 2015
r 70-5.02D	ad 2001 No 48

Disclosed under FOI

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
r 70-5.03	ad 2000 No 77 rs 2012 No 87
Division 78	
Division 78	ad 2000 No 77
r 78-105.01	ad 2000 No 77
Division 79	
Division 79	ad 2003 No 190
r 79-35.01	ad 2003 No 190
Division 81	
Division 81	ad 2011 No 127
r 81-10.01	ad 2011 No 127 am 2012 No 148
r 81-15.01	ad 2012 No 148
r 81-15.02	ad 2012 No 148
Part 4-7	
Part 4-7	ad 2000 No 110
Division 168	
Division 168	ad 2000 No 110
Subdivision 168-1	
Subdivision 168-1	ad 2000 No 110
r 168-5.01	ad 2000 No 110 am 2010 No 207
r 168-5.02	ad 2000 No 110 am No 39, 2015
r 168-5.03	ad 2000 No 110
r 168-5.04	ad 2000 No 110
r 168-5.05	ad 2000 No 110 rs 2013 No 6
Subdivision 168-2	
Subdivision 168-2 heading	rs No 39, 2015
Subdivision 168-2	ad 2000 No 110
r 168-5.06	ad 2000 No 110 am 2010 No 207; No 39, 2015
r 168-5.07	ad 2000 No 110 am No 39, 2015
Subdivision 168-3	
Subdivision 168-3	ad 2000 No 110
r 168-5.08	ad 2000 No 110 am No 39, 2015
r 168-5.09	ad 2000 No 110

Disclosed under FOI

Endnotes

Endnote 4—Amendment history

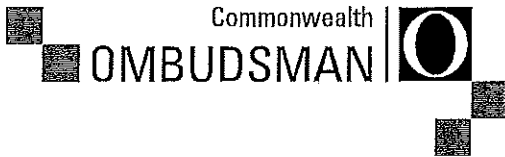
Provision affected	How affected
	am 2013 No 6
r 168-5.10	ad 2000 No 110
	am No 39, 2015; No 90, 2015; F2017L01491
Subdivision 168-3A	
Subdivision 168-3A	ad 2010 No 207
r 168-5.10A	ad 2010 No 207
r 168-5.10B	ad 2010 No 207
r 168-5.10C	ad 2010 No 207
	am No 90, 2015; F2017L01491
Subdivision 168-4	
Subdivision 168-4	ad 2000 No 110
r 168-5.11	ad 2000 No 110
	am 2010 No 207
	ed C34
Subdivision 168-5	
Subdivision 168-5	ad 2000 No 110
r 168-5.12	ad 2000 No 110
	am F2017L01491
r 168-5.13	ad 2000 No 110
	am No 39, 2015
	rep F2017L01491
Subdivision 168-6	
Subdivision 168-6	ad 2000 No 110
r 168-5.14	ad 2000 No 110
	am No 39, 2015
r 168-5.15	ad 2000 No 110
	am No 39, 2015
r 168-5.16	ad 2000 No 110
	am No 39, 2015; No 90, 2015
r 168-5.17	ad 2000 No 110
	am No 90, 2015; F2017L01491
Part 6-3	
Part 6-3	ad 2003 No 190
Division 195	
Division 195	ad 2003 No 190
r 195-1.01	ad 2003 No 190
r 195-1.02	ad 2007 No 258
Part 6-4	
Part 6-4	ad 2013 No 6
r 200-0.00 (prev r 120-0.00)	ad 2013 No 6

Disclosed under FOI

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
	renum 126, 2013
Schedule 3	
Schedule 3	ad 2000 No 110
Schedule 5	
Schedule 5	ad 2000 No 110
	am No 6 and 126, 2013; No 39, 2015; No 90, 2015
Schedule 7	
Schedule 1 heading.....	rs 2000 No 77
Schedule 7 (prev Schedule 1).....	am 2000 No 77
	renum 2000 No 110
	am 2012 No 87; 2013 No 7
Schedule 8	
Schedule 2 heading.....	rs 2000 No 77
Schedule 8 (prev Schedule 2)	am 2000 No 77
	renum 2000 No 110
	am 2012 No 87
	ed C33
Schedule 10	
Schedule 10	ad 2000 No 77
	am 2002 No 88; 2003 No 190; 2004 No 276; F2016L01625
Schedule 11	
Schedule 11	ad 2003 No 190
	am 2012 No 149
Schedule 12	
Schedule 12	ad 2007 No 258
Schedule 15	
Schedule 15 heading.....	rs No 126, 2013
Schedule 15	ad No 6, 2013
	am No 126, 2013; No 90, 2015; F2016L00518; F2017L01491; F2017L01568
Dictionary	
Dictionary.....	am No 49, 2000; No 77, 2000; No 89, 2000; No 110, 2000; No 48, 2001; No 258, 2007; No 108, 2011; No 215, 2012; No 279, 2013; No 39, 2015; No 90, 2015; F2016L01926; F2017L01568



MINUTE

File Ref: 2015-500004

7 October 2015

Colin Neave
Commonwealth and Immigration Ombudsman

through: Richard Glenn, Deputy Ombudsman

Subject Possible own motion investigation - operation of the Tourist Refund Scheme

Purpose

To bring to your attention concerns as to the operation of the Tourist Refund Scheme (TRS) and to consider the possibility of this office conducting an own motion investigation into the scheme, in particular the application of the '30 minute rule'.

Background

1. The TRS allows Australian and overseas passengers to claim back the GST on goods purchased in Australia and taken with them as accompanied baggage when they depart Australia.
2. To facilitate the on-time departure of aircraft, the government in 2000 introduced a '30 minute rule'. This stipulates that passengers intending to make a claim under the TRS must present themselves at the TRS counter at the airport at least 30 minutes before the departure time of their flight.
3. This office has investigated a number of complaints from individuals who have not been able to claim a refund of the GST they have paid on eligible purchases. These mostly related to instances where the 30 minute rule was applied, in the view of the complainant, unfairly or improperly. In some instances these investigations have resulted in the complainant receiving the GST refund.
4. In September 2015 we submitted a request for information to the department on the operation of the TRS. In this we asked if the regulations governing the operation of the 30 minute rule are supported by the legislation. The department confirmed that there is no legislative basis for the 30 minute rule.
5. We also asked about the operation of a 'drop-box' facility which we had been advised is used in the TRS section of the airports' departure area. Apparently this is used on an ad-hoc basis, being deployed only during peak processing periods. This facility allows passengers to place their completed refund claims in the drop-box for later processing, ensuring that plane departures are not delayed.

Disclosed under FOI

Issues

6. The legislation governing the TRS is quite explicit as to the qualification for a refund of GST. The relevant section (1) (d) (bolded for emphasis) is below:

A NEW TAX SYSTEM (GOODS AND SERVICES TAX) ACT 1999 - SECT 168.5

Tourist refund scheme

Exporting goods as accompanied baggage

(1) If:

- (a) you make an acquisition of goods the supply of which to you is a * taxable supply; and
- (b) the acquisition is of a kind specified in the regulations; and
- (c) you leave the indirect tax zone, and export the goods from Australia as accompanied baggage, in the circumstances specified in the regulations;

the Commissioner must, on behalf of the Commonwealth, pay to you an amount equal to:

- (d) the amount of the GST payable on the taxable supply; or**
- (e) such proportion of that amount of GST as is specified in the regulations.

7. As the Commissioner **must** pay the refund under the legislation, it can be argued that there is no basis for claims not to be accepted, either at the airport or lodged later after the person has left Australia, just because the 30 minute rule has been applied.

8. It is accepted that the operation of the 30 minute rule is essential for the smooth operation of Australia's airports and that there is no suggestion that it be removed. However, it is also clear that the legislation does not provide for a refund not to be paid purely because of an administrative convenience.

9. Investigations of individual complaints to this point have obtained an outcome for the complainant in some instances, mostly having identified inconsistencies in individual circumstances that the department agreed warranted refunds being paid.

10. In one complaint currently unfinalised, the complainant has provided correspondence from the department that states: 'Unfortunately on this occasion, our records indicate that you have not allowed sufficient time to complete all formalities before the scheduled departure time of your flight. I can appreciate your frustration, however due to the TRS legislative and / or administrative requirements not being met, we are unable to approve a refund of Goods and Services Tax (GST). Unfortunately, there is no legal avenue available to reverse this decision.'

11. While the investigation officer in this instance is yet to commence an investigation, it is apparent that there may be scope for this office to further investigate the apparent error in the advice provided by the department to the complainant.

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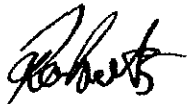
12. An own motion investigation may result in the Ombudsman recommending that the department uphold the legislation and make such administrative arrangements that will permit all individuals to claim the GST refund to which the legislation entitles them, with subsequent payment depending on all TRS eligibility criteria being met. This may take the form of a permanent drop-box facility that is available to all travellers on their departure, or other arrangements that the department might see fit to implement.

13. An alternative option for the department might be to place the 30 minute rule on a legislative or regulatory footing where none exists at present.

Recommendation

14. It is recommended that you:

- Consider the option of recommending to the Ombudsman that an own motion investigation be conducted into the operation of the Tourist Refund Scheme.

 
Doris Gibb
Senior Assistant Ombudsman
Immigration and Overseas
Students Branch

Endorsement

Recommendation(s) APROVED/ NOT APPROVED

Ombudsman gave oral approval - 14.10.15


Colin Neave
Ombudsman
October 2015

Attachments:

- A: Department's response to s 7a request for information into the operation of the TRS
- B: 'Tax back for Travellers' brochure which outlines the operation of the TRS.

File Ref: 2015-101675

13/05/2016

Colin Neave
Ombudsman

DN 18/5

16/5

through: Richard Glenn, Deputy Ombudsman

Subject Department's response to Tourist Refund Scheme own motion report

Purpose

To bring to your attention the Department of Immigration and Border Protection's response to the draft report of our investigation of the Tourist Refund Scheme's (TRS) 30 minute rule, and to seek your approval to publish the final report.

You may also wish to consider if the report should be brought to the attention of the media.

Background

1. Our office investigated the legality of the TRS's 30 minute rule which requires people departing Australia and who wish to claim a refund under the scheme to present themselves at the TRS counter at least 30 minutes prior to the departure of their flight.
2. We have received a number of complaints from people who felt they had been unfairly denied a refund under the TRS. In a number of these instances the department agreed to process a refund for the complainants retrospectively.
3. It had become apparent through our investigation of these complaints that there was no legislative basis for the 30 minute rule.
4. It was the issue of the lawfulness of the rule that formed the focus of the own motion investigation.

Issues

5. The draft report was sent to the department for comment. The department has accepted the recommendations in the report and, in consultation with other stakeholders, is taking steps to implement these recommendations.
6. The Immigration Strategy team will monitor the department's implementation of the recommendations as this progress.

Contains deletions under FOI

Recommendation

7. It is recommended that you:

- Note the department's response at page 10 of the attached report.
- Approve the publication of the report on the Ombudsman's website.
- Give consideration to the office issuing a press release to publicise the report and its outcomes.

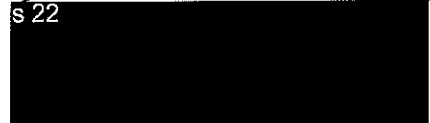


Doris Gibb
Senior Assistant Ombudsman
Immigration, Industry and
Territories

Endorsement

Recommendation(s) ~~APPROVED~~ / NOT APPROVED

s 22



Colin Neave
Ombudsman
May 2016

s 22



Contains deletions under FOI

From: Susan S [redacted]
To: Nathan S 47F [redacted]; Christopher S 47F [redacted]
Subject: TRS own motion - follow up. [DLM=For-Official-Use-Only]
Date: Wednesday, 24 August 2016 11:15:00 AM
Attachments: [image001.png](#)

Hello Nathan and Chris,

Chris asked me this morning to have a look at the TRS own-motion and work out when/how to follow up with the DIBP recommendations made and accepted.

It appears that it will take a little time for the DIBP to implement the recommendations. The DIBP committed to removing all references to the 30 minute rule 'within 3 months' – I don't really know when the clock starts ticking on the three months but if it is from the date of the report being published that brings us to the end of October:

I propose that we should follow up with the DIBP about its progress with each of the recommendations **in late October**. I have created a reminder in my diary for 25 October and I will draft something then for appropriate person(???) to send.

Are you both happy with this?

Cheers

Susan

Susan S [redacted]
Strategy Officer
COMMONWEALTH OMBUDSMAN
Phone: s 47E [redacted]
Email: s 47E [redacted]
Website: ombudsman.gov.au



Influencing systemic improvement in public administration

The Office of the Commonwealth Ombudsman acknowledges the traditional owners of country throughout Australia and their continuing connection to land, culture and community. We pay our respects to elders past and present.

Disclosed under FOI



Australian Government
Department of Immigration
and Border Protection

Please find below the Department's response to Ombudsman's preliminary inquiry on the Tourist Refund Scheme.

Background information provided by the Ombudsman's Office:

This office has received a number of complaints relating to the operation of this scheme, in particular as it relates to people who are unable to have their refund request processed before the 30 minute cut-off time before the scheduled departure of their flight.

Ombudsman's Questions

1. Is the department confident that the administrative arrangements supporting the 30 minute cut-off time are supported by legislation?

- a. If so, please provide evidence of relevant legal advice to this effect if it is available.

While the 30 minute cut-off time is not supported by legislation, this administrative arrangement is widely publicised to travellers. Attached is the most recent documentation from the Department outlining the application of the 30 minute rule. The 30 minute rule was first introduced in 2000 in consultation with aviation industry stakeholders to ensure that Tourist Refund Scheme (TRS) claimants did not cause delays to the on-time departure of an aircraft. The attached "TRS Tax back for Travellers" document clearly articulates the requirement. There are also very few customer complaints about this issue in relation to the volume of claims.

In 2013, the Department conducted a one month trial of a 20 minute cut-off time however, this did little to address the issue of passengers not leaving sufficient time to lodge their TRS claims. It should be noted that changes to, or removal of, the 30 minute rule would not be supported by the industry stakeholders as it will impact the on-time departure of their aircraft.

2. Is there a 'drop-box' facility at points of departure that allow people to lodge their claim for a refund if they cannot meet the 30 minute cut-off deadline?

- a. If so, please advise how this operates, including location of drop-boxes, signage, hours of availability etc
- b. when claims are processed, and
- c. if people are permitted to use this facility even if they have more than 30 minutes before their departure but for whatever reason do not want to queue to have their refund processed at the time.

The 'Drop Box' is not a standard operating procedure and is only deployed during peak processing periods. To make a TRS claim, a passenger must present their invoices, goods and travel information to an officer at the TRS counter when leaving Australia. If a passenger presents these documents to the satisfaction of the officer, then a payment authority will be issued under Regulation 168-5.12 of the *A new Tax System (Goods and Services Tax) Regulations 1999* (the Regulations).

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- 2 -

In exceptional circumstances where an officer cannot issue a payment authority, the TRS officer must make arrangements for the passenger to lodge a claim for payment, including their invoices and lodge the claim at a TRS verification facility before leaving Australia. Exceptional circumstances include passenger congestion that would make it unreasonable to verify each acquirer's claim within the time available. Exceptional circumstances are defined in Regulation 168-5.13:

If an officer of Customs is unable to give an acquirer a payment authority, because of exceptional circumstances that make it impracticable for the officer to verify the acquirer's entitlement, the officer must make arrangements for the acquirer:

(a) to complete a claim for payment; and

(b) to include with the claim the acquirer's tax invoice; and

(c) to lodge the claim at a TRS verification facility before leaving the indirect tax zone.

Examples of exceptional circumstances:

1 A power outage at a TRS verification facility, making it impossible to verify details by computer.

2 Passenger congestion that would make it unreasonable to verify each acquirer's claim within the time available.

In times when drop boxes are available, it is possible for a passenger to complete a drop box form within the 30 minute time period before the schedule departure time of their aircraft. Whether or not the claim is approved would depend on all the TRS eligibility criteria being met.

The TRS drop box only operates in Sydney, Melbourne, Brisbane and Perth airports as it is not considered that the other airports meet the 'exceptional circumstances' requirement as set out by the Regulations. The location of the drop boxes is dictated by the available space in the TRS claim area in the respective airports. Generally the location is adjacent to the TRS facility. However, as Sydney Airport is currently undertaking significant refurbishment of the departures concourse, the location of the drop box can sometimes vary.

The approval to deploy the drop box can only be authorised by the airport Duty Manager once queues become lengthy in the TRS facility. They are able to monitor the queues via CCTV or the supervising officer can request its deployment if they become aware of queues increasing. The drop box deployment is supported by a 2 metre pull up sign. These pull up signs are being redesigned due to some policy changes affecting the wording. The new wording advises that claims will be processed as soon as possible and refund will be paid within 60 days, if approved.

The process followed when the drop box is deployed is;

- Officers disseminate drop box forms to passengers.
- Officers sight the goods if required.
- Officers explain that travellers are required to complete the form in English and then deposit the original copy and their tax invoices into the envelope provided and place it in the dedicated box.

Drop box forms must be lodged at the TRS facility before leaving Australia, they cannot be posted to the Department. There is a carbon copy of the form which the passenger retains. Claims are processed as soon as resources permit, however payments are almost always made within 60 days of the passenger lodging their claim. The passenger's tax invoices along with a payment authority detailing the breakdown of the refund, or the status of their claim, are posted to the passenger's nominated home address. Passengers have the option to either queue to have their claim processed by an officer or, if the drop box is deployed, complete a form and leave it for processing at a later time.

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- 3 -

3. The department website states on its 'are you a traveller' page 'If you are leaving from another airport or seaport, contact the Department to find out how to make a claim.' A recent complainant to this office provided a copy of a letter from Customs in response to his complaint to Customs that states 'The TRS is only available at the time and place of departure and unfortunately cannot be processed after the departure date.' It would seem that there might be a conflict between these two pieces of information. Presumably if a person is departing from another airport or seaport then there are other arrangements in place for the processing of TRS claims and this may mean that claims are, or can be, processed after a departure date.

Please advise:

- a. What are the arrangements for claiming TRS from another airport or seaport (other than those listed on the 'are you a traveller' page of the department's website)?
- b. Does this conflict with Customs' advice that claims cannot be processed after the departure date?

Regulation 168-5.10 (3) of the Regulations requires a passenger to lodge a claim at a TRS verification facility when they are leaving Australia. A passenger cannot lodge a claim once they have departed Australia. If a passenger is departing from an airport or seaport other than those listed on the Department's internet website, we ask them to contact the Department so we can advise them of the requirements to make a successful claim.

For example, a passenger flying domestically from Canberra to Sydney and then on to London would be advised that they either have to carry all their TRS goods as hand luggage, or if their goods are oversized, check their luggage in as far as Sydney, collect their bags, proceed to the Department's Client Service office at the International Terminal to have their goods sighted and their tax invoice notated. After this they can then check in their luggage, proceed through passport control and lodge their TRS claim. If a passenger is unable to undertake this process then they do not meet legislative requirements for a refund and their claim cannot be approved.

In the case of seaport departures, the cruise ship operators generally contact the Department's Regional Maritime Operations area and advise them they have a cruise departing from a remote port and require TRS facilities at the last port of departure. It should be noted that TRS claims for sea departures must always be made at the ship's last port of departure from Australia which often is not the port at which the passenger embarked. This is articulated on the Departmental website and can be found at <http://www.border.gov.au/Trav/Ente/Tour/Are-you-a-traveller>.

4. If data is available, please advise:

- a. how many TRS claims were received in the financial year 2014/15

In the financial year 2014/15 there were 767,085 TRS claims made. Please note that this figure is under embargo until the publication of the Department's 2014/15 Annual Report.

- b. how many TRS claims were rejected in the same period for being lodged outside the stipulated period

As passengers are required to go directly to their aircraft to avoid causing delays to on time departure, the Department does not capture statistics as to how many claims were rejected for being within 30 minutes of the scheduled departure time of the aircraft.

- c. how many complaints were received about the operation of the TRS in the same period

In the financial year 2014/15 there were 301 complaints received about the operation of TRS.

Disclosed under FOI

- 4 -

d. how many complainants subsequently had their claim processed after their complaint was dealt with

It is difficult to ascertain how many complainants have subsequently had their claim approved after lodging a complaint. An estimate would be approximately 40% may receive a favourable response. However, where investigations have found that the Department did not deploy sufficient resources and the drop box was not available, or where the passenger made every effort to make a TRS claim but factors were not in their favour, we are likely to approve the passenger's claim if they had met all other eligibility requirements such as;

- having purchased the goods within 60 days of departure;
- meeting the \$300 threshold; and
- providing a valid tax invoice.

5. Any further information that may assist our office in its understanding of this issue.

The Department acknowledges that keeping up with the demand for the Tourist Refund Scheme is challenging. We are proactively engaging with major TRS stakeholders such as the Treasury and the Australian Taxation Office to seek agreement on reform. The TRS legislation has had minimal changes since its introduction in 2000 and whilst the Department has comprehensive policy documentation supporting the administration of the Scheme, such as the 30 minute rule, this is not reflected in the TRS legislation.

The Department advises passengers that to ensure they are able to lodge a TRS claim they should aim to be at the TRS facility at least 90 minutes prior to the scheduled departure of their aircraft. As the TRS is the last event in the departure process, passengers have often experienced delays at check in or have chosen to spend time farewelling family and friends and arrive at the TRS with limited time before their flight departs. Where the Department is found to be at fault or consider that the passenger has left sufficient time for their claim to be processed, we consider payment of their claim retrospectively.

A large number of complaints to the Department are from Australian residents who lodge a complaint upon their return to Australia about their inability to lodge a TRS claim on departure, usually due to excessive queuing. There is significant risk that Australian travellers have reimported the products claimed and the Department is in no position to verify this. The often extended travel periods of Australian travellers combined with limited CCTV storage facilities mean it is extremely difficult to verify these claims. The Department is therefore unable to confirm that the passenger in question has met all requirements for a refund of GST as required by the legislation. There is no leeway in many of these requirements.

The administration of the Scheme in Sydney is made more difficult by the less than ideal accommodation at Sydney International Airport, which does not allow the Department to better utilise queue management for its mobile and web based applications which allows for expedited TRS claim processing. This is being addressed during a major redevelopment of Sydney airport.

Quick Guide

It is recommended that you arrive at the TRS facility at least 90 minutes prior to the departure of your aircraft to ensure you leave sufficient time to successfully lodge your TRS claim.

Claims at airports may not be able to be processed within 30 minutes of your aircraft's scheduled departure time.

Claims at seaports can be made no earlier than four hours and may not be able to be processed within 60 minutes of your ship's scheduled departure time.

How do I make a claim?

On the day of departure you must:

1. Present the following items to an officer at the TRS facility:

- passport;
- international boarding pass;
- original tax invoice(s); and
- the goods.

2. Choose a refund payment option:

- credit/charge card (Amex, Diners, JCB, MasterCard, Union Pay, Visa)
- Australian bank account (you will need your BSB and account number for this option)
- cheque.

Payments will be processed within 60 days of your claim being lodged with at the TRS facility.

TRS App

The Department of Immigration and Border Protection mobile and web TRS applications (apps) allow you to enter the information required to lodge a TRS claim. Using the apps you can enter:

- your travel details;
- details of the goods for you are claiming a refund of Goods and Services Tax (GST) and Wine Equalisation Tax (WET); and
- how you prefer to receive your TRS refund.

The information will be stored in a QR code. This QR code is your TRS claim code. You must present your TRS claim code to an officer at the TRS counter on your departure from Australia.

If you successfully enter your claim details using the web app, you may be able to use a dedicated queue at the TRS facility and your claim should be processed faster.

Contacting the Department of Immigration and Border Protection

Phone: within Australia - 131 881

Internet: www.border.gov.au

Complaints and Compliments

Phone: within Australia - 133 177

Email: comments@border.gov.au

This information is correct at the time of printing. Current information can be obtained by contacting Immigration and Border Protection.

July 2015



An Australian Government Initiative

Tax back for Travellers



What is the Tourist Refund Scheme?

The Tourist Refund Scheme (TRS) allows Australian and overseas passengers to claim back the Goods and Services Tax (GST) and the Wine Equalisation Tax (WET) on goods purchased in Australia and taken with them as accompanied baggage overseas on the same plane that you are travelling on).

Operating air and sea crew are not eligible to claim refunds under the TRS.

What are the conditions of the scheme?

To be eligible for a refund under the TRS you must:

- Spend a minimum of \$300 (GST inclusive) with the one retailer with the same Australian Business Number (ABN).
- Purchase the goods within 30 days before departing Australia.
- Tax invoices with a value of \$1,000 or more must show the identity or ABN of the purchaser. If not this part of your TRS claim will be rejected and you will be required to return to the retailer and obtain a new tax invoice.
- Carry the goods with you as hand baggage, unless they are oversized or required to be checked-in by the airline.

If you are unable to present your goods on request, or provide evidence that Immigration and Border Protection has sighted your goods at your port of departure from Australia your claim WILL be rejected.

Note: Regular examinations will be conducted to ensure that goods that are checked in have been exported. Where non-compliance of Tourist Refund Scheme occurs, penalties and prosecution action may apply.

Disclosed under FOI

Frequently Asked Questions

Can I purchase goods from any retailer?

Yes. You can purchase goods from any retailer providing they are registered for GST in Australia. This means you can buy them from overseas but the company must have an ABN. Note: The shipping charges are exempt from your refund.

Can I purchase goods from several retailers?

Yes. There is no limit to the number of retailers you can purchase goods from, provided the purchase(s) made from each individual retailer (ABN) totals \$300 or more (GST inclusive).

Can I purchase goods totalling \$300 (GST inclusive) from the same retailer over several days within the 60 day period?

Yes. As long as all other TRS eligibility requirements are met.

Can I use the goods before departing Australia?

Yes. However you cannot consume or partly consume goods such as wine, chocolate or perfume.

Can I claim a refund on goods purchased by someone else?

No. The person making the TRS claim MUST have purchased the goods.

Can I make a TRS claim if I am travelling as a passenger on a military aircraft or ship?

Yes. Contact the Tourist Refund Office for more information.

Can I put my refund on someone else's credit card or bank account?

Yes. But ensure you have the correct banking details to avoid the bank rejecting the payment.

What is NOT eligible for a refund?

You cannot claim a refund on:

GST-free goods

Some goods such as certain health products are GST-free and therefore a refund of GST cannot be claimed.

Services

Services such as accommodation, car rental, tours and labour charges. The TRS only refunds GST on goods that are exported. As services are used in Australia before departure they are not eligible for a refund.

Alcoholic Beverages, tobacco and tobacco products

These goods can be purchased duty and GST-free from duty-free stores.

Consumed goods

Goods that have been consumed or partly consumed in Australia such as wine, chocolate or perfume.

Dangerous goods

Goods that cannot be taken with you as hand or checked-in baggage, such as dangerous goods which are prohibited from being loaded onto an aircraft or ship.

Where are the TRS facilities located?

TRS facilities are located after you go through outward immigration processing at international airports and major seaports. Please contact your cruise company to see whether TRS will be available. **Note:** TRS claims on cruise ships MUST be made at the last port of departure from Australia. This must be considered when calculating the 60 days period.

Will the TRS facility be open for early morning and/or late evening flight departures?

Yes. The TRS facility will be open for all flights departing from Australian international airports.

What if I cannot produce my goods at the TRS facility?

Officers at the TRS facility need to be satisfied that the goods are being taken out of Australia either as hand baggage or checked-in baggage.

Failure to produce your goods to an officer at the TRS facility on request, or evidence that Immigration and Border Protection has sighted your goods prior to check-in at your port of departure from Australia will result in your claim being refused.

Could aviation security measures affect my TRS claim?

Yes, restrictions apply to the amount of liquids, aerosols and gels (LAGs) that can be carried on international flights as hand baggage. Contact the Department of Immigration and Border Protection for more information.

Returning to Australia with your TRS goods

There are limits on the quantity of goods you are allowed to bring into Australia duty and/or tax-free as part of your passenger duty-free concession.

This includes goods purchased:

- overseas
- in Australia duty or tax-free before departure
- in Australia for which a TRS refund has been claimed
- from an inwards duty-free shop on arrival in Australia.

More information about duty-free concessions is contained in the brochure Guide for Travellers—Know Before You Go available from the Department of Immigration and Border Protection's website.



BE AWARE

If you exceed your duty-free limits you will be charged duty and tax on all items of that type (general goods, alcohol or tobacco) not just the items which exceed the limits.

Penalties apply to undeclared taxable goods.

Disclosed under FOI

Contains deletions under FOI

From: Nathan § 47F
To: Nathan § 47F
Subject: FW: Response to TRS "Own Motion" Investigation, DIBP ref OHR-15-00479 [SEC=UNCLASSIFIED]
Date: Wednesday, 20 April 2016 3:40:37 PM
Attachments: TRS Legal Advice.docx
Importance: High

From: § 47F [mailto:§ 47E]
Sent: Wednesday, 2 March 2016 9:17 AM
To: Nathan § 47F § 47E
Cc: § 47E
Subject: Response to TRS 'Own Motion' Investigation, DIBP ref OHR-15-00479 [SEC=UNCLASSIFIED]
Importance: High

UNCLASSIFIED

Nathan,

You advised that under section 8(1) of the *Ombudsman Act 1976*, the Commonwealth Ombudsman decided to commence an own motion investigation into the administration of the Tourist Refund Scheme (TRS), specifically the application of the '30 minute rule' and whether travellers are improperly being denied refunds.

Given that the department has confirmed that the administrative arrangements supporting the 30 minute rule are not supported by legislation, which states:

A NEW TAX SYSTEM (GOODS AND SERVICES TAX) ACT 1999 - SECT 168.5

Tourist refund scheme

Exporting goods as accompanied baggage

(1) If:

(a) you make an acquisition of goods the supply of which to you is a * taxable supply; and

(b) the acquisition is of a kind specified in the regulations; and

(c) you leave the indirect tax zone, and export the goods from Australia as accompanied baggage, in the circumstances specified in the regulations;

the Commissioner must, on behalf of the Commonwealth, pay to you an amount equal

to:

(d) the amount of the GST payable on the taxable supply; or

(e) such proportion of that amount of GST as is specified in the regulations.

does the department have a view of the lawfulness of denying refunds to people who might not meet the 30 minute rule, noting that the legislation states the Commissioner MUST pay a refund, without reference to any administrative arrangements that might be in place? It appears to us that that s 168.5 creates an obligation on the Commissioner to pay the refund and that this obligation is not being met for people who have not met the 30-minute rule.

Legislative provisions covering the TRS are included in the *A New Tax System (Goods and Services*

Contains deletions under FOI

Tax) Act 1999 (GST Act). Under Section 168-5.12, a GST refund payment must be made to a passenger if the goods are subject to a taxable supply; a valid tax invoice relating to the goods is presented to an officer on departure from Australia; and the passenger, on request, presents their goods, passport and boarding pass. The 30 minute rule is not covered in the GST Act or Regulations and is an administrative procedure only. The 30 minute rule was developed in consultation with airlines and airport operators, to ensure that TRS claimants did not cause delays to the on time departure of aircraft.

The Department relies on this rule to require passengers to present at a TRS claims facility at least 30 minutes before the scheduled departure of their flight. The Department does not apply the 30 minute rule strictly and allows some discretion as to whether or not 'late' claims can be accepted. The Department does advise in its TRS 'Tax Back for Travellers' brochure and on its Internet site that claimants should allow at least 90 minutes prior to the departure of their aircraft to lodge a TRS claim. This 90 minute timeframe is consistent with the recommended timeframe for similar tourist shopping refund schemes in other countries.

If a passenger arrives at a TRS facility in line with our recommended timeframe of 90 minutes before their flight departs, the Department will not refuse their claim due to the 30 minute rule. In particular, we will agree to process retrospective claims on request for any passengers who arrive in line with our recommended timeframe of 90 minutes, but need to leave the queue before lodging their claim in order to board their flight. In addition to this, we generally agree to retrospectively process 'late' claims from passengers if they were unable to lodge their claim due to excessive queues at any point in the border clearance process or other delays that are beyond the control of the passenger.

The Department's position is that a TRS claim cannot lawfully be rejected on the basis that a passenger has not presented at a TRS verification facility 30 minutes before the scheduled departure of their flight. However the Department's view is that the 30 minute rule can be supported administratively if it is implemented as a guideline rather than a basis to reject a claim. This may involve, for example, advising passengers lodging a claim within 30 minutes of their scheduled departure that they are at risk of missing their flight. The Department would still process claims for any passengers who decline to follow this advice. The Department is issuing advice to Australian Border Force officers involved in processing TRS claims to clarify this position.

Please provide a copy of any internal or external legal advice/opinion the department has obtained in relation to this issue.

The Department is providing (attached) a copy of internal legal advice in relation to the 30 minute rule that was obtained. However, this advice is provided subject to the following caveats:

- the legal advice is provided in confidence for the specific purpose of the investigation into the administration of the Tourist Refund Scheme, specifically the application of the 30 minute rule;
- the Ombudsman's Office undertakes not to disclose this legal advice to a third party without seeking the Department's prior written consent; and
- notwithstanding the disclosure of the legal advice to the Ombudsman's office, the advice is still subject to legal professional privilege.

Contains deletions under FOI

With regard to the consistency of the application of the 30 minute rule, can you please advise if travellers who might broadly fit into the category of VIPs (such as politicians, diplomats, high-profile celebrities, sports teams etc) are required to lodge claims at the TRS counter, or are other arrangements made available to them? - Do any such arrangements have the 30 minute rule applied to them?

In regards to your question of consistency of application of the 30 minute rule to diplomats, politicians, celebrities etc., section 168.5 of the GST Act specifies that only the person who purchases the goods can make the TRS claim and receive the refund. If a VIP is departing on a commercial international flight, and they have purchased the goods for which they wish to make a TRS claim, then there is an expectation that the VIP would queue at the TRS facility and make their claim. There is no special treatment given to VIPs departing on commercial aircraft.

TRS claims are only processed at an aircraft if it is an 'off terminal clearance' where the aircraft is parked some distance from the terminal building and outwards customs clearance, including passenger processing, export cargo clearance, and TRS claim are undertaken. These off terminal clearances could range from politicians, VIPs, sporting teams, military and Medi-Vac flights etc.

Other Comments

For the financial year 2013-14, the Department received 148 complaints relating to the 30 minute rule compared to 198 received for 2014-15, whilst up to 1 December 2015, 106 have been received for 2015-16. Given that for those years, 671,564 and 767,085 TRS claims were made respectively, this roughly represents one complaint about the 30 minute rule for every 4000 passengers processed, about 0.025%.

It should be noted that any proposed changes to the implementation of 30 minute rule will need to be preceded by consultation with the airline industry as changes may impact the on-time departure of aircraft.

The Department is aware that there are issues associated with current administrative arrangements for the TRS. This includes queuing and congestion in the TRS claims area, especially during peak departure periods. The Department is actively pursuing reform to the TRS in partnership with the Treasury, the ATO and AusTrade. The reformed TRS model is expected to significantly improve the traveller experience and reduce passenger complaints. This is expected to include reducing use and complaints about the 30 minute rule.

Happy to discuss.

Regards,

S

s 47F

Contains deletions under FOI

Manager, External Accountability Section
Risk and Assurance Branch | Integrity, Security and Assurance Division
Corporate Group
Department of Immigration and Border Protection
M: s 47E
E: s 47E

UNCLASSIFIED

From: Nathan s 47F [mailto:s 47E]
Sent: Monday, 18 January 2016 9:38 AM
To: s 47E
Cc: s 47F
Subject: TRIM: RE: Notification of own motion investigation [SEC=UNCLASSIFIED]

Hi s 47F

Are you able to advise when we can expect the response to this?

Thanks

Nathan

From: s 47F [mailto:s 47E] On Behalf Of s 47E
Sent: Tuesday, 8 December 2015 4:25 PM
To: Nathan s 47F
Cc: s 47E
Subject: RE: Notification of own motion investigation [SEC=UNCLASSIFIED]

UNCLASSIFIED

Dear Nathan

I have been requested to see if we may have an extension to reply to this request which is due to you on 21 December 2015. The relevant business area is having difficulty getting urgent clearance of their brief to the Comptroller-General of Customs and therefore would request if they may respond on 7 January 2016?

Regards

s 47F
Assistant Director
External Accountability Section
Risk and Assurance Branch; Integrity, Security and Assurance Division
Department of Immigration and Border Protection

Contains deletions under FOI

Email: s 47E

Telephone: s 47E

UNCLASSIFIED

From: Nathan s 47F [mailto:s 47E]

Sent: Friday, 20 November 2015 2:48 PM

To: s 47E

Cc: s 47F

Subject: Notification of own motion investigation [SEC=UNCLASSIFIED]

Dear s 47F

Attached please find a copy of a letter sent by the Ombudsman to Mr Pezzullo advising that this office is conducting an own motion investigation into the Tourist Refund Scheme, particularly as it relates to the application of the '30 minute rule'.

I will be sending a s 8 request for information to the department next week.

A letter has also been sent to the Minister advising him of this investigation.

Please let me know if you have any queries.

Regards

Nathan s 47F

Assistant Director

Immigration Strategy Team

Commonwealth Ombudsman

Ph: s 47E | Fax: 02 6276 0123

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From: s 47F

Sent: Tuesday, 1 December 2015 8:25 AM

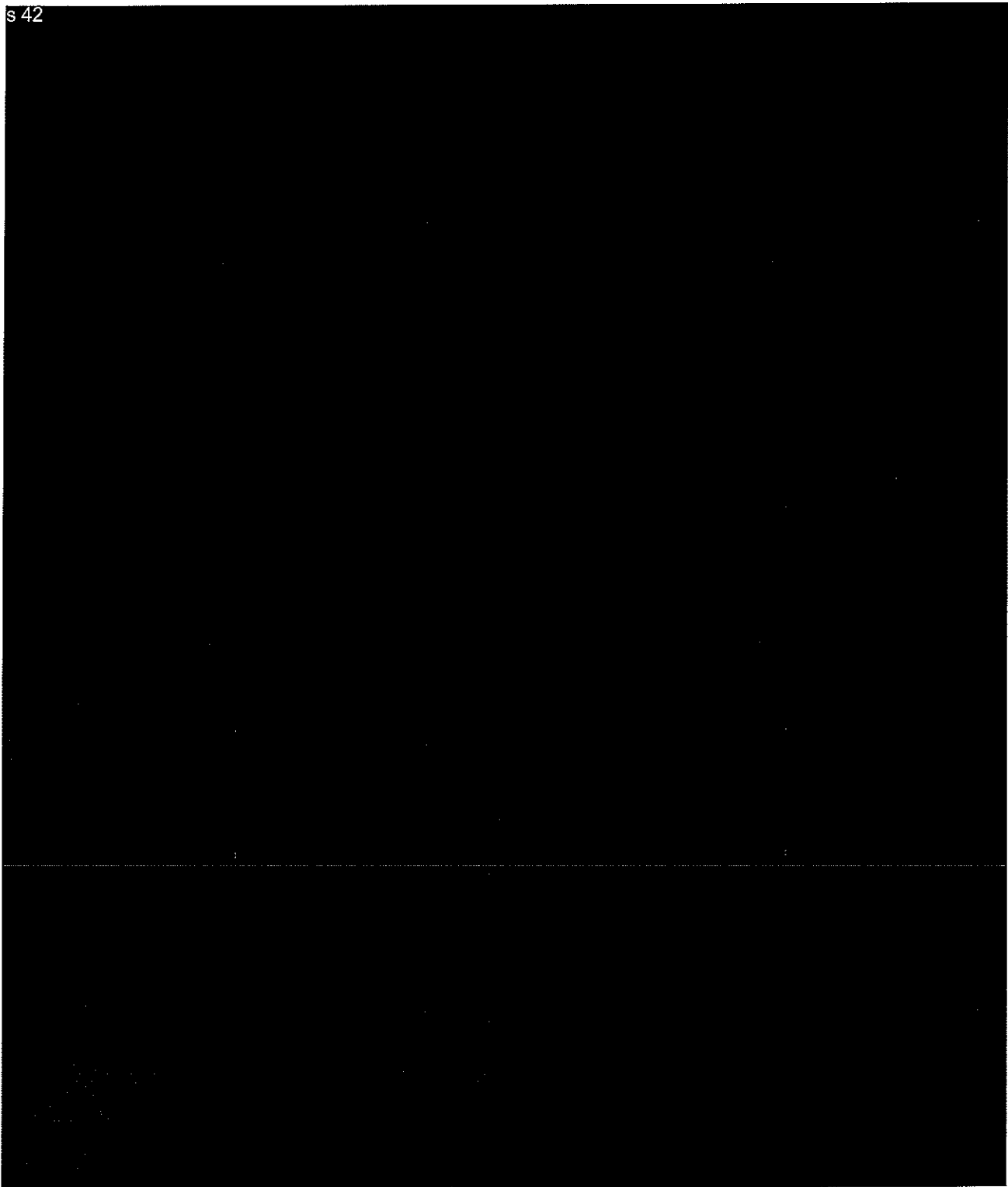
To: s 47F

Cc: s ; s 47F ; s 47F

Subject: RE: Commonwealth Ombudsman investigation into the Tourist Refund Scheme
[DLM=Sensitive:Legal]

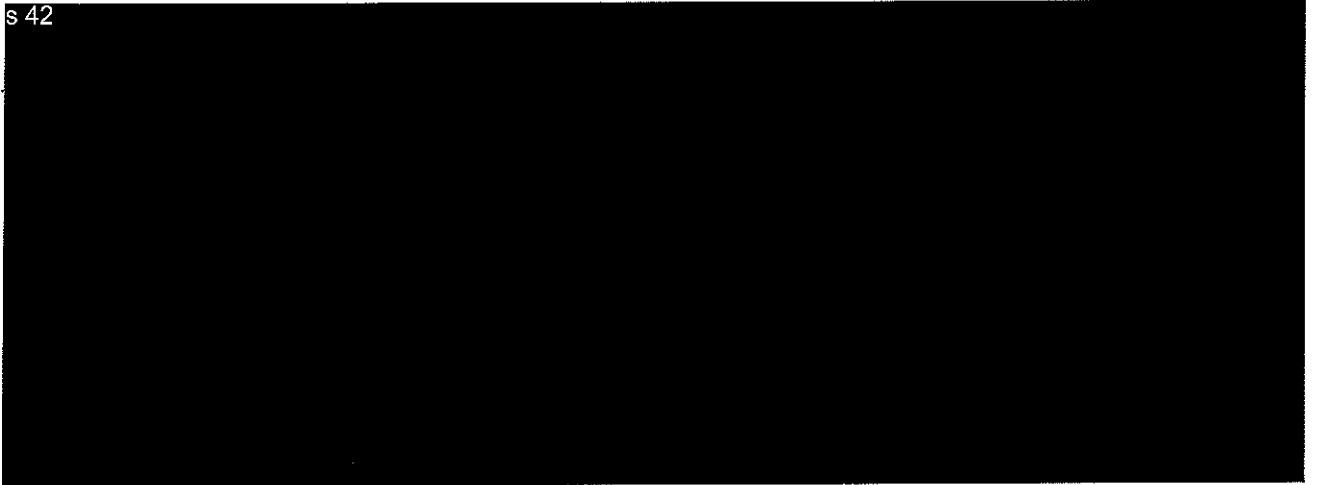
Dear s 47F

s 42



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s 42



Regards

s 47F

Lawyer | Operations Support

Legal Advice and Operational Support Branch | Legal Division

Department of Immigration and Border Protection

T: s 47E | E: s 47E

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COMMONWEALTH
OMBUDSMAN



Investigation into the Tourist Refund Scheme and the application of the 30 minute rule

July 2016

Report by the Commonwealth Ombudsman,
Colin Neave AM, under the *Ombudsman Act 1976*

REPORT NO. **03|2016**

Disclosed under FOI

Reports by the Ombudsman

Under the *Ombudsman Act 1976* (Cth), the Commonwealth Ombudsman investigates the administrative actions of Australian Government agencies and officers. An investigation can be conducted as a result of a complaint or on the initiative (or own motion) of the Ombudsman.

Most complaints to the Ombudsman are resolved without the need for a formal report. The Ombudsman can, however, culminate an investigation by preparing a report that contains the opinions and recommendations of the Ombudsman. A report can be prepared if the Ombudsman is of the opinion that the administrative action under investigation was unlawful, unreasonable, unjust, oppressive, improperly discriminatory, or otherwise wrong or unsupported by the facts; was not properly explained by an agency; or was based on a law that was unreasonable, unjust, oppressive or improperly discriminatory.

A report can also be prepared to describe an investigation, including any conclusions drawn from it, even if the Ombudsman has made no adverse findings.

A report by the Ombudsman is forwarded to the agency concerned and the responsible minister. If the recommendations in the report are not accepted, the Ombudsman can choose to furnish the report to the Prime Minister or Parliament.

These reports are not always made publicly available. The Ombudsman is subject to statutory secrecy provisions, and for reasons of privacy, confidentiality or privilege it may be inappropriate to publish all or part of a report. Nevertheless, to the extent possible, reports by the Ombudsman are published in full or in an abridged version on the Ombudsman's website at www.ombudsman.gov.au.

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**Commonwealth Ombudsman – Department of Immigration and Border Protection:
Investigation into the Tourist Refund Scheme and the application of the 30 minute rule**

EXECUTIVE SUMMARY

The Ombudsman's office has investigated a number of complaints about the operation of the Tourist Refund Scheme (TRS), in particular the '30 minute rule'. This rule requires departing passengers who wish to claim a refund of GST on goods purchased prior to departing Australia to present themselves at the airport's TRS counter at least 30 minutes prior to their flight's scheduled departure time.

The stated purpose of the rule is to ensure people claiming a refund allow sufficient time to do so, thus ensuring that flight departures are not delayed.

In our investigation of these complaints it became apparent that the 30 minute rule is not supported by legislation and that the department may have refused refunds to people who it claimed had not met the rule, without any lawful basis for its actions.

The department has acknowledged that the 30 minute rule is not supported by legislation and has indicated it is considering how changes to the processes at the TRS facilities can be implemented.

The Ombudsman makes the following recommendations:

Recommendation one:

- As an interim measure the department takes all reasonable steps to ensure that travellers who wish to claim a TRS refund are able to do so in a way that is consistent with the law.

Recommendation two:

- The department consider the permanent use of the drop box facility at TRS facilities at all international points of departure, and takes all necessary steps to ensure the appropriate regulations are in place to give effect to this arrangement.

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Commonwealth Ombudsman – Department of Immigration and Border Protection:
Investigation into the Tourist Refund Scheme and the application of the 30 minute rule

PART 1— INTRODUCTION

Background

1.1 This report is the result of an investigation into aspects of the TRS, in particular the 30 minute rule. The TRS allows Australian and overseas passengers to claim back the Goods and Services Tax (GST) and the Wine Equalisation Tax (WET) on goods purchased in Australia and taken with them as accompanied baggage overseas on the same plane or ship they are travelling on.¹

1.2 The 30 minute rule requires that people who wish to claim a refund of GST when leaving Australia must present themselves at the airport's TRS counter at least 30 minutes prior to the scheduled departure of their flight. The stated purpose of the 30 minute rule, which was introduced in 2000 in consultation with aviation industry stakeholders, is to ensure that people intending to claim a refund allow sufficient time for their refund to be processed, and to allow flights to meet their scheduled departure times.

1.3 The Ombudsman's office has received a number of complaints from people who felt they were unfairly denied a refund of the GST they had paid on goods purchased in Australia. Such refunds were claimable under the TRS on departure from Australia and had been denied on the basis that the 30 minute rule had not been met.

1.4 Information is provided to departing travellers in the brochure *Tax back for Travellers* which states that 'claims at airports may not be able to be processed within 30 minutes of your aircraft's scheduled departure time'. It also recommends that passengers arrive at the TRS facility at least 90 minutes prior to time of departure to ensure that sufficient time is available to lodge a TRS claim.

1.5 Our investigation of these complaints showed that the application of the 30 minute rule, and in particular the ad hoc arrangements put in place when there was a high volume of passengers to process, were at times inadequate.

1.6 It also became apparent the 30 minute rule was operating as a de facto barrier to making a valid application.

1.7 The legislation creates an obligation on the Commissioner to refund the GST portion of the costs paid of certain goods acquired in Australia and subsequently exported. It does not address the subject of how applications are made or processed.

1.8 This point then became the focus of the Ombudsman's own motion investigation.

¹ This report focusses on the issue of GST refunds at international airports only, reflecting the substance of the complaints made to the Ombudsman's office.

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Commonwealth Ombudsman – Department of Immigration and Border Protection:
Investigation into the Tourist Refund Scheme and the application of the 30 minute rule

Legislation

1.9 The legislative basis for the TRS is contained in the *A New Tax System (Goods and Services Tax) Act 1999, Section 168.5*. Specifically the Act states *inter alia*:

Tourist refund scheme

Exporting goods as accompanied baggage

(1) If:

(a) you make an acquisition of goods the supply of which to you is a taxable supply; and

(b) the acquisition is of a kind specified in the regulations; and

(c) you leave the indirect tax zone, and export the goods from Australia as accompanied baggage, in the circumstances specified in the regulations;

the Commissioner must, on behalf of the Commonwealth, pay to you an amount equal to:

(d) the amount of the GST payable on the taxable supply; or

(e) such proportion of that amount of GST as is specified in the regulations.

1.10 It is noted that the Act states the Commissioner **must** (emphasis added) pay the amount of GST to the traveller, and there is no provision in the legislation that makes such an obligation subject to an administrative arrangement such as the 30 minute rule.

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Commonwealth Ombudsman – Department of Immigration and Border Protection:
Investigation into the Tourist Refund Scheme and the application of the 30 minute rule

PART 2— OMBUDSMAN'S INVESTIGATION

2.1 The Ombudsman formally advised the Hon Peter Dutton MP, Minister for Immigration and Border Protection, and the Secretary of the Department of Immigration and Border Protection, on 23 December 2015 that he was commencing an own motion investigation into this matter under s 8 of the *Ombudsman Act 1976*.

2.2 The focus of this investigation was on the lawfulness of people being refused refunds who were assessed as not having met the 30 minute rule. This report draws on the information provided by the department in its response to this own motion investigation as well as its responses to the investigation of complaints in 2014 and 2015, and to a formal request for information sent to the department in September 2015.

2.3 In the formal request sent in September 2015 we asked the department if it was confident that the administrative arrangements supporting the 30 minute rule are supported by legislation. It advised that the 30 minute rule is not supported by legislation.

Case study one – emerging issue, validity of 30 minute rule

Mr A complained to the Ombudsman that he had been denied a TRS refund 'due to the legislative and administrative requirements not being met', as advised in the response to his complaint lodged with the department.

Our office investigated the complaint and as part of this investigation pointed out that the legislation required the Commissioner to pay Mr A the refund and that the department in refusing to process Mr A's claim was in breach of the legislation.

In its response the department noted that in two previous complaint investigations in 2011 the Ombudsman's office had accepted the department's view that passengers had not allowed sufficient time for their claims to be processed. However the department remained silent on the issue of the 30 minute rule's validity.

The department stated that as CCTV footage showed that as there were no other departing passengers queuing at the TRS facility at the time and that Mr W was able to present his claims to a TRS officer before boarding his flight, it was prepared to reconsider Mr A's TRS claim on this occasion.

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Commonwealth Ombudsman – Department of Immigration and Border Protection: Investigation into the Tourist Refund Scheme and the application of the 30 minute rule

2.4 Our office also asked for details of the drop box facility that is deployed at some airports during peak periods and allows people to lodge a claim without having to queue. This facility is used in exceptional circumstances, which are defined in regulation 168-5.13 as being:

- 1 *A power outage at a TRS verification facility, making it impossible to verify details by computer.*
- 2 *Passenger congestion that would make it unreasonable to verify each acquirer's claim within the time available.*

2.5 The approval to deploy the drop box, and the appropriate signage advising that the drop box is in operation, can only be authorised by the department's airport Duty Manager once queues become lengthy in the TRS facility. However this is dependent on TRS staff being aware of the queues.

Case study two – failure to implement use of drop box facility

Mr D complained that he had arrived at the TRS facility nearly two hours before his scheduled departure and that the very long queue was moving slowly. He subsequently left the queue as he had to board his aircraft and also stated that a number of other passengers did the same. He asked a TRS officer if there was another way he could lodge a claim and was told that sometimes there was but on that occasion he could not be provided with any further assistance.

In its response to our investigation of Mr D's complaint the department acknowledged that on this occasion there were long queues of which the TRS staff were unaware due to the construction of a new TRS processing area. The department advised that because of the circumstances pertaining at the time of Mr A's attempt to claim a refund, it would consider a request from him for a retrospective claim

2.6 In its response to the Ombudsman's own motion investigation the department confirmed the earlier legal advice that the 30 minute rule is not supported by legislation. It further stated that its position now is that a TRS claim cannot lawfully be rejected on the basis that a passenger has not presented at a TRS verification facility 30 minutes before the scheduled departure of their flight.

2.7 However the department has expressed the view that the 30 minute rule can be supported administratively if it is implemented as a guideline rather than a basis to reject a claim. It states that this may involve, for example, advising passengers lodging a claim within 30 minutes that they are at risk of missing their flight. The department would still process claims for any passengers who decline to follow this advice.

2.8 The Ombudsman is seeking further advice from the department as to how and when this is to be implemented.

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Commonwealth Ombudsman – Department of Immigration and Border Protection:
Investigation into the Tourist Refund Scheme and the application of the 30 minute rule

Case study three – incorrect advice to complainant of legality of decision to refuse refund

Mr B, on behalf of Mr C, a relative who lives overseas, complained that Mr C presented at the TRS counter within the time permitted by the 30 minute rule. He was seen by a TRS officer who then told him to wait while that officer, it appeared, took a toilet break. When the officer returned Mr C was told that there was now insufficient time to process his claim and the officer then made a public address announcement to the effect that everyone in the TRS queue, who was boarding the same flight as Mr C, should leave the queue and proceed to the departure point.

Mr C had complained to the department but in its response, which rejected his request that his refund be processed, stated that Mr C had not allowed sufficient time for his claim to be processed. The department referenced advice on its website that advises passengers to allow 90 minutes before their scheduled departure time for their TRS claim to be processed. The department advised Mr C that 'due to the TRS legislative and/or administrative requirements not being met, we are unable to approve a refund of GST. Unfortunately there is no legal avenue available to reverse this decision'.

The department indicated in its response to this office's investigation of Mr B's complaint that it had no CCTV footage of the circumstances relating to Mr C's claimed experience at the TRS counter. On the basis that it was not able to confirm or refute Mr C's version of what happened in this regard the department advised that it would make a retrospective consideration of Mr C's claim for a refund.

2.9 The department also advised that it received 198 complaints about the 30 minute rule in 2014-15 and a proportionally similar number so far in 2015-16. With more than 767,000 TRS claims made in 2014-15 this represents a complaint rate of 0.026%.

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Commonwealth Ombudsman – Department of Immigration and Border Protection:
Investigation into the Tourist Refund Scheme and the application of the 30 minute rule

PART 3— CONCLUSIONS AND RECOMMENDATIONS

3.1 It is of concern to the Ombudsman that an administrative arrangement such as the 30 minute rule could have been conceived and implemented without regard to the relevant legislation. As implemented, the Commissioner's obligation to pay the GST refund is not always fulfilled, especially for individuals who would otherwise meet all the criteria in s 168.5.

3.2 It is equally concerning that having acknowledged to the Ombudsman on more than one occasion² in 2015 that the 30 minute rule was not supported by legislation, the department took no action to remedy the situation.

3.3 The fact that few people complain, or that the measure was implemented with the best intentions does not give legitimacy to an arrangement introduced purely on the basis of administrative convenience.

3.4 There is evidence, in the information the department has provided to this office in its various responses, that travellers are being informed that they are not entitled to apply for a refund as they do not comply with the 30 minute rule, which is not accurate.

3.5 The Ombudsman supports both the necessity of having in place arrangements for processing TRS refunds in such a manner that does not put at risk the on-time departures of international flights, and the obligation of passengers to ensure that they allow sufficient time to have their TRS claims processed.

3.6 However it is incumbent on the department to ensure that such arrangements are designed in full accordance with the law. While the percentage of people who have complained to the department about having been denied refunds for not meeting the 30 minute rule is small, as is the number of people who have subsequently complained to the Ombudsman, there is an important principle to be considered – that the department must act in accordance with the law.

Recommendation one

As an interim measure the department takes all reasonable steps to ensure that travellers who wish to claim a TRS refund are able to do so in a way that is consistent with the law.

3.7 The department states that one possible solution is to amend regulation 168-5.10 to provide that a person *must* present themselves at a TRS facility at least 30 minutes before the scheduled departure of their flight.

² 2014-509615 – Department's response dated 23 March 2015
Department's response to s 7.1 request for information, dated 18 September 2015

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Commonwealth Ombudsman – Department of Immigration and Border Protection: Investigation into the Tourist Refund Scheme and the application of the 30 minute rule

3.8 While this option may assist in ensuring that flight departures would not be delayed, it would also remove the flexibility of the department to assess individual circumstances on their merits.

3.9 There is already a procedure in place to process claims by the use of a drop box when there are delays caused by unforeseen circumstances such as power outages, allowing people not to have to queue and lodge a claim in person.

3.10 The Ombudsman is of the view that an alternative solution is to amend regulation 168-5.13 to allow for the permanent operation of the drop box facility, giving departing travellers the option of either queuing at the TRS facility to have their refund processed at the time of departure, or lodge their claim in the drop box and to have it processed in due course.

Recommendation two

The department consider the permanent use of the drop box facility at TRS facilities at all international points of departure, and takes all necessary steps to ensure the appropriate regulations are in place to give effect to this arrangement.

3.11 As the department has conceded that the 30 minute rule is not supported by legislation, it follows that there is likewise no legal basis for having refused TRS claims on the grounds that the 30 minute rule had not been met, and that such refusals may constitute defective administration.

3.12 People who have had TRS claims refused because they had not met the 30 minute rule may wish to lodge a claim for compensation under the Compensation for Detriment caused by Defective Administration (CDDA) scheme.

3.13 The CDDA Scheme provides a possible avenue for compensation where a person has suffered detriment due to the defective actions or inaction of the Commonwealth Government.³ Defective administration is defined *inter alia* as an unreasonable failure to institute appropriate administrative procedures.

³ <http://www.finance.gov.au/resource-management/discretionary-financial-assistance/cdda-scheme/>

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Commonwealth Ombudsman – Department of Immigration and Border Protection: Investigation into the Tourist Refund Scheme and the application of the 30 minute rule

3.14 The Ombudsman makes the following recommendations:

Recommendation one:

- As an interim measure the department takes all reasonable steps to ensure that travellers who wish to claim a TRS refund are able to do so in a way that is consistent with the law.

Recommendation two:

- The department consider the permanent use of the drop box facility at TRS facilities at all international points of departure, and takes all necessary steps to ensure the appropriate regulations are in place to give effect to this arrangement.

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Commonwealth Ombudsman – Department of Immigration and Border Protection:
Investigation into the Tourist Refund Scheme and the application of the 30 minute rule

PART 4— THE DEPARTMENT'S RESPONSE TO THE REPORT AND RECOMMENDATIONS

4.1 We provided this report to the department in draft form for comment.

4.2 In its response, the department acknowledges that the rule is an administrative arrangement. The rule was developed in consultation with airlines and airport operators at the commencement of the scheme in 2000. The arrangement was implemented to minimise delays to flight departures and associated on-costs to airlines and passengers from delayed passengers being off-loaded, rescheduled on later aircraft and other flow on costs.

4.3 The department has commenced discussions with the Australian Taxation Office to remove the rule as part of short term improvements. The department will remove reference to the rule and associated procedures from the department's internet site within the next three months and from TRS brochures in the next print run once current stocks are depleted. Brochures currently in circulation were reprinted after the portfolio's integration on 1 July 2015, so current stock levels are still quite high.

4.4 The department has also commenced working with airlines and airport operators to identify options to lawfully process TRS claims to ensure no passenger is disadvantaged when making a TRS claim while at the same time mitigating any adverse effect on airport operations and on-time departures of flights.

Recommendation one

4.5 The department agrees with recommendation one; there are options to comply, some of which will take longer than others. Designing new processes that will be agreed by all stakeholders to deliver full compliance with the law, with no cost to Government and airports, will likely take some time.

Recommendation two

4.6 The department agrees to consider the permanent/ongoing use of a drop box facility and, if that proposal has the support of all affected parties, to support that action with regulations as necessary. Where there is the need for changes to regulations, guidance from Treasury will be sought.

COMMONWEALTH
OMBUDSMAN



Investigation into the Tourist Refund Scheme and the application of the 30 minute rule

July 2016

Report by the Acting Commonwealth Ombudsman,
Richard Glenn, under the *Ombudsman Act 1976*

REPORT NO. **03|2016**

Disclosed under FOI

Reports by the Ombudsman

Under the *Ombudsman Act 1976* (Cth), the Commonwealth Ombudsman investigates the administrative actions of Australian Government agencies and officers. An investigation can be conducted as a result of a complaint or on the initiative (or own motion) of the Ombudsman.

Most complaints to the Ombudsman are resolved without the need for a formal report. The Ombudsman can, however, culminate an investigation by preparing a report that contains the opinions and recommendations of the Ombudsman. A report can be prepared if the Ombudsman is of the opinion that the administrative action under investigation was unlawful, unreasonable, unjust, oppressive, improperly discriminatory, or otherwise wrong or unsupported by the facts; was not properly explained by an agency; or was based on a law that was unreasonable, unjust, oppressive or improperly discriminatory.

A report can also be prepared to describe an investigation, including any conclusions drawn from it, even if the Ombudsman has made no adverse findings.

A report by the Ombudsman is forwarded to the agency concerned and the responsible minister. If the recommendations in the report are not accepted, the Ombudsman can choose to furnish the report to the Prime Minister or Parliament.

These reports are not always made publicly available. The Ombudsman is subject to statutory secrecy provisions, and for reasons of privacy, confidentiality or privilege it may be inappropriate to publish all or part of a report. Nevertheless, to the extent possible, reports by the Ombudsman are published in full or in an abridged version on the Ombudsman's website at www.ombudsman.gov.au.

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Commonwealth Ombudsman – Department of Immigration and Border Protection: Investigation into the Tourist Refund Scheme and the application of the 30 minute rule

EXECUTIVE SUMMARY

The Ombudsman's office has investigated a number of complaints about the operation of the Tourist Refund Scheme (TRS), in particular the '30 minute rule'. This rule requires departing passengers who wish to claim a refund of GST on goods purchased prior to departing Australia to present themselves at the airport's TRS counter at least 30 minutes prior to their flight's scheduled departure time.

The stated purpose of the rule is to ensure people claiming a refund allow sufficient time to do so, thus ensuring that flight departures are not delayed.

In our investigation of these complaints it became apparent that the 30 minute rule is not supported by legislation and that the department may have refused refunds to people who it claimed had not met the rule, without any lawful basis for its actions.

The department has acknowledged that the 30 minute rule is not supported by legislation and has indicated it is considering how changes to the processes at the TRS facilities can be implemented.

The Ombudsman makes the following recommendations:

Recommendation one:

- As an interim measure the department takes all reasonable steps to ensure that travellers who wish to claim a TRS refund are able to do so in a way that is consistent with the law.

Recommendation two:

- The department consider the permanent use of the drop box facility at TRS facilities at all international points of departure, and takes all necessary steps to ensure the appropriate regulations are in place to give effect to this arrangement.

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Commonwealth Ombudsman – Department of Immigration and Border Protection:
Investigation into the Tourist Refund Scheme and the application of the 30 minute rule

PART 1— INTRODUCTION

Background

1.1 This report is the result of an investigation into aspects of the TRS, in particular the 30 minute rule. The TRS allows Australian and overseas passengers to claim back the Goods and Services Tax (GST) and the Wine Equalisation Tax (WET) on goods purchased in Australia and taken with them as accompanied baggage overseas on the same plane or ship they are travelling on.¹

1.2 The 30 minute rule requires that people who wish to claim a refund of GST when leaving Australia must present themselves at the airport's TRS counter at least 30 minutes prior to the scheduled departure of their flight. The stated purpose of the 30 minute rule, which was introduced in 2000 in consultation with aviation industry stakeholders, is to ensure that people intending to claim a refund allow sufficient time for their refund to be processed, and to allow flights to meet their scheduled departure times.

1.3 The Ombudsman's office has received a number of complaints from people who felt they were unfairly denied a refund of the GST they had paid on goods purchased in Australia. Such refunds were claimable under the TRS on departure from Australia and had been denied on the basis that the 30 minute rule had not been met.

1.4 Information is provided to departing travellers in the brochure *Tax back for Travellers* which states that 'claims at airports may not be able to be processed within 30 minutes of your aircraft's scheduled departure time'. It also recommends that passengers arrive at the TRS facility at least 90 minutes prior to time of departure to ensure that sufficient time is available to lodge a TRS claim.

1.5 Our investigation of these complaints showed that the application of the 30 minute rule, and in particular the ad hoc arrangements put in place when there was a high volume of passengers to process, were at times inadequate.

1.6 It also became apparent the 30 minute rule was operating as a de facto barrier to making a valid application.

1.7 The legislation creates an obligation on the Commissioner to refund the GST portion of the costs paid of certain goods acquired in Australia and subsequently exported. It does not address the subject of how applications are made or processed.

1.8 This point then became the focus of the Ombudsman's own motion investigation.

¹ This report focusses on the issue of GST refunds at international airports only, reflecting the substance of the complaints made to the Ombudsman's office.

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Legislation

1.9 The legislative basis for the TRS is contained in the *A New Tax System (Goods and Services Tax) Act 1999, Section 168.5*. Specifically the Act states *inter alia*:

Tourist refund scheme

Exporting goods as accompanied baggage

(1) If:

(a) you make an acquisition of goods the supply of which to you is a taxable supply; and

(b) the acquisition is of a kind specified in the regulations; and

(c) you leave the indirect tax zone, and export the goods from Australia as accompanied baggage, in the circumstances specified in the regulations;

the Commissioner must, on behalf of the Commonwealth, pay to you an amount equal to:

(d) the amount of the GST payable on the taxable supply; or

(e) such proportion of that amount of GST as is specified in the regulations.

1.10 It is noted that the Act states the Commissioner **must** (emphasis added) pay the amount of GST to the traveller, and there is no provision in the legislation that makes such an obligation subject to an administrative arrangement such as the 30 minute rule.

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PART 2— OMBUDSMAN'S INVESTIGATION

2.1 The Ombudsman formally advised the Hon Peter Dutton MP, Minister for Immigration and Border Protection, and the Secretary of the Department of Immigration and Border Protection, on 23 December 2015 that he was commencing an own motion investigation into this matter under s 8 of the *Ombudsman Act 1976*.

2.2 The focus of this investigation was on the lawfulness of people being refused refunds who were assessed as not having met the 30 minute rule. This report draws on the information provided by the department in its response to this own motion investigation as well as its responses to the investigation of complaints in 2014 and 2015, and to a formal request for information sent to the department in September 2015.

2.3 In the formal request sent in September 2015 we asked the department if it was confident that the administrative arrangements supporting the 30 minute rule are supported by legislation. It advised that the 30 minute rule is not supported by legislation.

Case study one – emerging issue, validity of 30 minute rule

Mr A complained to the Ombudsman that he had been denied a TRS refund 'due to the legislative and administrative requirements not being met', as advised in the response to his complaint lodged with the department.

Our office investigated the complaint and as part of this investigation pointed out that the legislation required the Commissioner to pay Mr A the refund and that the department in refusing to process Mr A's claim was in breach of the legislation.

In its response the department noted that in two previous complaint investigations in 2011 the Ombudsman's office had accepted the department's view that passengers had not allowed sufficient time for their claims to be processed. However the department remained silent on the issue of the 30 minute rule's validity.

The department stated that as CCTV footage showed that as there were no other departing passengers queuing at the TRS facility at the time and that Mr W was able to present his claims to a TRS officer before boarding his flight, it was prepared to reconsider Mr A's TRS claim on this occasion.

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2.4 Our office also asked for details of the drop box facility that is deployed at some airports during peak periods and allows people to lodge a claim without having to queue. This facility is used in exceptional circumstances, which are defined in regulation 168-5.13 as being:

- 1 *A power outage at a TRS verification facility, making it impossible to verify details by computer.*
- 2 *Passenger congestion that would make it unreasonable to verify each acquirer's claim within the time available.*

2.5 The approval to deploy the drop box, and the appropriate signage advising that the drop box is in operation, can only be authorised by the department's airport Duty Manager once queues become lengthy in the TRS facility. However this is dependent on TRS staff being aware of the queues.

Case study two – failure to implement use of drop box facility

Mr D complained that he had arrived at the TRS facility nearly two hours before his scheduled departure and that the very long queue was moving slowly. He subsequently left the queue as he had to board his aircraft and also stated that a number of other passengers did the same. He asked a TRS officer if there was another way he could lodge a claim and was told that sometimes there was but on that occasion he could not be provided with any further assistance.

In its response to our investigation of Mr D's complaint the department acknowledged that on this occasion there were long queues of which the TRS staff were unaware due to the construction of a new TRS processing area. The department advised that because of the circumstances pertaining at the time of Mr A's attempt to claim a refund, it would consider a request from him for a retrospective claim

2.6 In its response to the Ombudsman's own motion investigation the department confirmed the earlier legal advice that the 30 minute rule is not supported by legislation. It further stated that its position now is that a TRS claim cannot lawfully be rejected on the basis that a passenger has not presented at a TRS verification facility 30 minutes before the scheduled departure of their flight.

2.7 However the department has expressed the view that the 30 minute rule can be supported administratively if it is implemented as a guideline rather than a basis to reject a claim. It states that this may involve, for example, advising passengers lodging a claim within 30 minutes that they are at risk of missing their flight. The department would still process claims for any passengers who decline to follow this advice.

2.8 The Ombudsman is seeking further advice from the department as to how and when this is to be implemented.

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Case study three – incorrect advice to complainant of legality of decision to refuse refund

Mr B, on behalf of Mr C, a relative who lives overseas, complained that Mr C presented at the TRS counter within the time permitted by the 30 minute rule. He was seen by a TRS officer who then told him to wait while that officer, it appeared, took a toilet break. When the officer returned Mr C was told that there was now insufficient time to process his claim and the officer then made a public address announcement to the effect that everyone in the TRS queue, who was boarding the same flight as Mr C, should leave the queue and proceed to the departure point.

Mr C had complained to the department but in its response, which rejected his request that his refund be processed, stated that Mr C had not allowed sufficient time for his claim to be processed. The department referenced advice on its website that advises passengers to allow 90 minutes before their scheduled departure time for their TRS claim to be processed. The department advised Mr C that 'due to the TRS legislative and/or administrative requirements not being met, we are unable to approve a refund of GST. Unfortunately there is no legal avenue available to reverse this decision'.

The department indicated in its response to this office's investigation of Mr B's complaint that it had no CCTV footage of the circumstances relating to Mr C's claimed experience at the TRS counter. On the basis that it was not able to confirm or refute Mr C's version of what happened in this regard the department advised that it would make a retrospective consideration of Mr C's claim for a refund.

2.9 The department also advised that it received 198 complaints about the 30 minute rule in 2014-15 and a proportionally similar number so far in 2015-16. With more than 767,000 TRS claims made in 2014-15 this represents a complaint rate of 0.026%.

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PART 3— CONCLUSIONS AND RECOMMENDATIONS

3.1 It is of concern to the Ombudsman that an administrative arrangement such as the 30 minute rule could have been conceived and implemented without regard to the relevant legislation. As implemented, the Commissioner's obligation to pay the GST refund is not always fulfilled, especially for individuals who would otherwise meet all the criteria in s 168.5.

3.2 It is equally concerning that having acknowledged to the Ombudsman on more than one occasion² in 2015 that the 30 minute rule was not supported by legislation, the department took no action to remedy the situation.

3.3 The fact that few people complain, or that the measure was implemented with the best intentions does not give legitimacy to an arrangement introduced purely on the basis of administrative convenience.

3.4 There is evidence, in the information the department has provided to this office in its various responses, that travellers are being informed that they are not entitled to apply for a refund as they do not comply with the 30 minute rule, which is not accurate.

3.5 The Ombudsman supports both the necessity of having in place arrangements for processing TRS refunds in such a manner that does not put at risk the on-time departures of international flights, and the obligation of passengers to ensure that they allow sufficient time to have their TRS claims processed.

3.6 However it is incumbent on the department to ensure that such arrangements are designed in full accordance with the law. While the percentage of people who have complained to the department about having been denied refunds for not meeting the 30 minute rule is small, as is the number of people who have subsequently complained to the Ombudsman, there is an important principle to be considered – that the department must act in accordance with the law.

Recommendation one

As an interim measure the department takes all reasonable steps to ensure that travellers who wish to claim a TRS refund are able to do so in a way that is consistent with the law.

3.7 The department states that one possible solution is to amend regulation 168-5.10 to provide that a person *must* present themselves at a TRS facility at least 30 minutes before the scheduled departure of their flight.

² 2014-509615 – Department's response dated 23 March 2015
Department's response to s 7.1 request for information, dated 18 September 2015

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3.8 While this option may assist in ensuring that flight departures would not be delayed, it would also remove the flexibility of the department to assess individual circumstances on their merits.

3.9 There is already a procedure in place to process claims by the use of a drop box when there are delays caused by unforeseen circumstances such as power outages, allowing people not to have to queue and lodge a claim in person.

3.10 The Ombudsman is of the view that an alternative solution is to amend regulation 168-5.13 to allow for the permanent operation of the drop box facility, giving departing travellers the option of either queuing at the TRS facility to have their refund processed at the time of departure, or lodge their claim in the drop box and to have it processed in due course.

Recommendation two

The department consider the permanent use of the drop box facility at TRS facilities at all international points of departure, and takes all necessary steps to ensure the appropriate regulations are in place to give effect to this arrangement.

3.11 As the department has conceded that the 30 minute rule is not supported by legislation, it follows that there is likewise no legal basis for having refused TRS claims on the grounds that the 30 minute rule had not been met, and that such refusals may constitute defective administration.

3.12 People who have had TRS claims refused because they had not met the 30 minute rule may wish to lodge a claim for compensation under the Compensation for Detriment caused by Defective Administration (CDDA) scheme.

3.13 The CDDA Scheme provides a possible avenue for compensation where a person has suffered detriment due to the defective actions or inaction of the Commonwealth Government.³ Defective administration is defined *inter alia* as an unreasonable failure to institute appropriate administrative procedures.

³ <http://www.finance.gov.au/resource-management/discretionary-financial-assistance/cdda-scheme/>

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3.14 The Ombudsman makes the following recommendations:

Recommendation one:

- As an interim measure the department takes all reasonable steps to ensure that travellers who wish to claim a TRS refund are able to do so in a way that is consistent with the law.

Recommendation two:

- The department consider the permanent use of the drop box facility at TRS facilities at all international points of departure, and takes all necessary steps to ensure the appropriate regulations are in place to give effect to this arrangement.

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PART 4— THE DEPARTMENT’S RESPONSE TO THE REPORT AND RECOMMENDATIONS

4.1 We provided this report to the department in draft form for comment.

4.2 In its response, the department acknowledges that the rule is an administrative arrangement. The rule was developed in consultation with airlines and airport operators at the commencement of the scheme in 2000. The arrangement was implemented to minimise delays to flight departures and associated on-costs to airlines and passengers from delayed passengers being off-loaded, rescheduled on later aircraft and other flow on costs.

4.3 The department has commenced discussions with the Australian Taxation Office to remove the rule as part of short term improvements. The department will remove reference to the rule and associated procedures from the department’s internet site within the next three months and from TRS brochures in the next print run once current stocks are depleted. Brochures currently in circulation were reprinted after the portfolio’s integration on 1 July 2015, so current stock levels are still quite high.

4.4 The department has also commenced working with airlines and airport operators to identify options to lawfully process TRS claims to ensure no passenger is disadvantaged when making a TRS claim while at the same time mitigating any adverse effect on airport operations and on-time departures of flights.

Recommendation one

4.5 The department agrees with recommendation one; there are options to comply, some of which will take longer than others. Designing new processes that will be agreed by all stakeholders to deliver full compliance with the law, with no cost to Government and airports, will likely take some time.

Recommendation two

4.6 The department agrees to consider the permanent/ongoing use of a drop box facility and, if that proposal has the support of all affected parties, to support that action with regulations as necessary. Where there is the need for changes to regulations, guidance from Treasury will be sought.