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**Public Ruling**  
**Taxation Administration Act:**  
**PART 6 OF THE TAXATION ADMINISTRATION**  
**ACT 2001—OBJECTIONS AND APPEALS**

*A Public Ruling, when issued, is the published view of the Commissioner on the particular topic to which it relates. It therefore replaces and overrides any existing private rulings, memoranda, manuals and advice provided by the Commissioner in respect of the issue/s it addresses. Where a change in legislation or case law (the law) affects the content of a Public Ruling, the change in the law overrides the Public Ruling—that is, the Commissioner will determine the tax liability or eligibility for a concession, grant, subsidy or exemption, as the case may be, in accordance with the law.*

## What this Ruling is about

1. Part 6 of the *Taxation Administration Act 2001* (the Administration Act) outlines the process of objections and appeals against assessments. Division 1 covers objections and Division 2 covers appeals.
2. Part 6 of the Administration Act applies to the following revenue laws:
  - (a) *Duties Act 2001*<sup>1</sup>
  - (b) *Pay-roll Tax Act 1971*, except in relation to pay-roll tax liabilities arising before 1 July 2005.<sup>2</sup>
3. The purpose of this Public Ruling is to clarify the objection and appeals rights available to taxpayers.

<sup>1</sup> Sections 3 and 6(1) of the Administration Act

<sup>2</sup> Sections 3 and 6(4)–(5) of the Administration Act and ss.59(2) and (3)(c) of the *Pay-roll Tax Act 1971*

## Ruling and explanation

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### Right of objection

4. Section 63 of the Administration Act provides a taxpayer with a right of objection to the following:
  - (a) an original assessment<sup>3</sup>, other than a compromise assessment<sup>4</sup>
  - (b) a reassessment<sup>5</sup> increasing a taxpayer's liability for tax or a reassessment under s.18(b) decreasing a taxpayer's liability for tax. However the right of objection is limited to the changes for the particular matters for which the reassessment is made.
5. Part 6 of the Administration Act also applies to a decision to which s.500 of the *Duties Act 2001* applies as if the decision not to reassess was an assessment.
6. There is no approved form, or other form for an objection—a letter will suffice. The letter must be signed by the taxpayer or the taxpayer's duly authorised agent.
7. The objection must:
  - (a) be in writing
  - (b) state in detail the grounds of objections
  - (c) be accompanied by copies of all materials relevant to decide the objection and
  - (d) be lodged within 60 days after the assessment notice for the assessment to which the objection relates is given to the taxpayer.<sup>6</sup>
8. An extension of time may be given for the lodgement of the objection if the Commissioner is satisfied it would be unreasonable in the particular circumstances for the objection to be lodged within 60 days.<sup>7</sup>
9. The extension of time is not granted automatically. The Commissioner will not consider a verbal request for an extension of time. The request for an extension of time must be made in writing and must outline the full facts and circumstances of why the extension of time is sought.
10. The Commissioner's decision to refuse to extend the time for lodging an objection is a non-reviewable decision<sup>8</sup>.
11. As the timeframe for lodging the objection is longer than the timeframe for paying the assessment, the taxpayer must pay the assessment on or before the due date<sup>9</sup> even if the taxpayer intends lodging or has lodged an objection. Otherwise unpaid tax interest will accrue under s.54 of the Administration Act.

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<sup>3</sup> Defined in Schedule 2 of the Administration Act

<sup>4</sup> Section 12 of the Administration Act

<sup>5</sup> Defined in Schedule 2 of the Administration Act

<sup>6</sup> Section 65(1) of the Administration Act

<sup>7</sup> Section 65(2) of the Administration Act

<sup>8</sup> Section 65(3) and Part 6, Division 3 of the Administration Act

<sup>9</sup> Section 30 of the Administration Act

12. The lodgement of an objection does not affect the Commissioner's power under s.45 of the Administration Act to recover unpaid tax law<sup>10</sup> amounts as debts due to the State.

### **Determination of the objection**

13. The onus of proof for an objection is on the person making the objection.<sup>11</sup>
14. If a delegate of the Commissioner made the assessment against which the objection is lodged that delegate will not decide the objection.<sup>12</sup>
15. The Commissioner must give written notice to the objector of the Commissioner's decision on the objection.<sup>13</sup>
16. If the objection is allowed in part or disallowed, the notice must state the reasons for the decision, the time in which the objector may appeal and how the objector may appeal.<sup>14</sup>

### **Right of appeal**

17. Section 69 of the Administration Act provides that if a taxpayer is dissatisfied with the Commissioner's decision on the taxpayer's objection, the taxpayer may appeal to the Supreme Court.
18. However, no right of appeal exists if the whole of the amount of the tax and late payment interest payable under the assessment to which the appeal relates has not been paid.<sup>15</sup>

### **Appeal process**

19. The notice of appeal must be filed with the Supreme Court within 60 days after notice is given to the taxpayer of the Commissioner's decision on the objection. No extension of time is available for filing the notice.<sup>16</sup>
20. Written notice of the appeal must be given to the Commissioner within 7 days after the notice of appeal is filed.<sup>17</sup>
21. The notice of appeal must state fully the grounds of the appeal and the facts relied on.<sup>18</sup>
22. The grounds of the appeal are limited to the grounds of objection unless the Supreme Court orders otherwise.<sup>19</sup>
23. The appellant has the onus of proving the appellant's case.<sup>20</sup>

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<sup>10</sup> A tax law is defined in Schedule 2 of the Administration Act as a revenue law or the Administration Act.

<sup>11</sup> Section 66 of the Administration Act

<sup>12</sup> Section 67(2) of the Administration Act

<sup>13</sup> Section 68(1) of the Administration Act

<sup>14</sup> Section 68(2) of the Administration Act

<sup>15</sup> Section 69(2) of the Administration Act

<sup>16</sup> Sections 70(2) and (3) of the Administration Act

<sup>17</sup> Section 70(1) of the Administration Act

<sup>18</sup> Section 70(4) of the Administration Act

<sup>19</sup> Section 70(5) of the Administration Act

<sup>20</sup> Section 72 of the Administration Act

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24. If the Supreme Court is satisfied that evidence material to the objection was not submitted to the Commissioner when the objection was decided and the evidence is admitted to the Court subject to s.70(5) of the Administration Act then:
- (a) the Court must adjourn the hearing of the appeal and
  - (b) the Court must direct the Commissioner to reconsider the objection having regard to the evidence and any other evidence obtained by the Commissioner.<sup>21</sup>
25. Paragraphs 24(a) and (b) do not apply if the Commissioner requests the Court to continue the hearing without the Commissioner reconsidering the objection.<sup>22</sup>
26. If the Commissioner does reconsider the objection, the Commissioner has all the powers conferred by the Administration Act.<sup>23</sup>
27. If the Commissioner makes a reassessment after an appeal against the assessment is started then on receiving the assessment notice for the reassessment, the taxpayer may:
- (a) continue or withdraw the existing appeal or
  - (b) instead of objecting to the reassessment, change the grounds of appeal, by filing notice of the change with the registrar of the Supreme Court. The taxpayer may only change the grounds of appeal to the extent that the taxpayer would have the right of objection to the reassessment.<sup>24</sup>
28. The Supreme Court must allow the appeal completely, or partly, or disallow it.<sup>25</sup>

**Date of effect**

29. This Public Ruling takes effect from the date of issue.

David Smith  
 Commissioner of State Revenue  
 Date of Issue 24 February 2009

**References**

Public Ruling	Issued	Dates of effect	
		From	To
TAA000.1.1	24 February 2009	24 February 2009	29 June 2009
Supersedes Revenue Ruling TA 5.1	1 July 2005	1 July 2005	23 February 2009

<sup>21</sup> Sections 73(1) and (2) of the Administration Act

<sup>22</sup> Section 73(3) of the Administration Act

<sup>23</sup> Section 73(4) of the Administration Act

<sup>24</sup> Section 71 of the Administration Act

<sup>25</sup> Section 74 of the Administration Act