

# **NORTHERN TERRITORY OF AUSTRALIA**

## **TAXATION AND ROYALTY APPEALS TRIBUNAL RULES**

As in force at 31 March 2005

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 31 March 2005

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## TAXATION AND ROYALTY APPEALS TRIBUNAL RULES

### Rules under the *Taxation (Administration) Act*

#### **Part 1 Preliminary matters**

##### **1 Citation**

These Rules may be cited as the *Taxation and Royalty Appeals Tribunal Rules*.

##### **2 Definitions**

In these Rules, unless the contrary intention appears:

***appeal*** means an appeal to the Tribunal under Part V, Division 3 of the Act.

***appellant*** means the taxpayer who has commenced an appeal or applied for an extension of time for commencing an appeal.

***lodge*** means to lodge with the Registrar in accordance with rule 5.

***party*** means an appellant or respondent.

***respondent*** means the decision maker whose decision is being appealed against.

##### **3 Seal of Tribunal**

- (1) There is to be a seal of the Tribunal.
- (2) The Registrar must keep a stamp of a design as near as practicable to the seal of the Tribunal.
- (3) A document marked with the stamp kept by the Registrar is taken to have been sealed with the seal of the Tribunal.

##### **4 Forms**

- (1) A reference in these Rules to a form by number is a reference to the form of that number in Schedule 1.

- (2) If there is an inaccuracy in the completion of a form used in an appeal, the Tribunal may:
  - (a) make the amendments to the form the Tribunal considers appropriate;
  - (b) make orders for the amendment of the form; or
  - (c) accept the form without amendment.

## **5 Lodgement of documents**

- (1) A party may lodge a document (including a form) with the Registrar by physically delivering it to the office of the Registrar.
- (2) If there is a facility at the office of the Registrar for the receipt of documents by electronic transmission, a party may lodge a document by sending it by electronic transmission.
- (3) If a party lodges a document by electronic transmission, the party must ensure a hard copy of the document, and any prescribed fee, is delivered by hand or post to the office of the Registrar:
  - (a) within 3 working days after the date of lodgement; or
  - (b) within a further period as permitted by the Tribunal or Registrar.

## **Part 2 Procedures relating to appeals**

### **6 Notice of appeal**

- (1) The notice of appeal referred to in section 105C of the Act must be in accordance with Form 1.
- (2) If the notice of appeal is lodged more than 60 days after notice of the decision appealed against was issued by the decision maker, the appellant must apply in Form 1 for an extension of time for commencing the appeal, stating the reasons for the delay.
- (3) The appellant must lodge sufficient copies of the notice of appeal, with any material referred to in section 105C(1)(e) of the Act attached, to allow for service of a sealed copy on the respondent.
- (4) Service of the notice of appeal is effected by delivering or posting a sealed copy to the office of the respondent.

**7 Notice of response**

No later than 14 days after being served with the notice of appeal, the respondent must lodge, and serve on the appellant, a notice of response in accordance with Form 2.

**8 Notice of preliminary conference**

- (1) Following lodgement of the notice of response, the Tribunal must fix a date, time and place for a preliminary conference and give the parties a notice including the following details:
  - (a) the date and time fixed for the conference;
  - (b) the place at which the conference is to be held;
  - (c) the requirements for attendance at the conference in accordance with rule 9.
- (2) The preliminary conference must not be held earlier than 14 days after the notice of response is lodged.

**9 Attendance at preliminary conference**

- (1) The appellant must attend the preliminary conference:
  - (a) in person;
  - (b) by a legal practitioner;
  - (c) if the appellant is a corporation – by an officer or employee of the corporation; or
  - (d) if the appellant is a firm – by a partner or employee of the firm.
- (2) The respondent must attend the preliminary conference:
  - (a) in person;
  - (b) by a delegate or authorised representative of the respondent; or
  - (c) by a legal practitioner.
- (3) A person attending the preliminary conference may be accompanied by a legal practitioner.
- (4) A party for whom physical attendance is impracticable may seek the leave of the Tribunal to attend the preliminary conference by teleconferencing.

**10 Orders or directions at preliminary conference**

At the preliminary conference, the Tribunal may make the orders or give the directions it considers appropriate, including any of the following:

- (a) if the appellant has applied for an extension of time for commencing the appeal – any of the following orders or directions:
  - (i) if the Tribunal is satisfied the appellant has a reasonable excuse for not commencing the appeal within the period specified in section 105B(1) of the Act – an order extending the time for commencement;
  - (ii) if the Tribunal is not satisfied the appellant has a reasonable excuse – an order refusing to extend the time for commencement;
  - (iii) an order for a further preliminary conference in respect of the application for an extension of time;
  - (iv) directions about how evidence may be given or submissions may be made in relation to the application for an extension of time;
- (b) directions in relation to lodgement and service of any documents referred to in section 105E of the Act;
- (c) an order that the appellant may, within a specified period, lodge any further material relevant to the appeal and may lodge submissions in response to those lodged by the respondent;
- (d) any orders consequent on the non-attendance of a party at the preliminary conference;
- (e) if the Tribunal is satisfied the circumstances of the appeal require a hearing to be conducted – directions relating to the conduct of the hearing and the requirement for any further conferences to be held, or further actions to be taken by the parties, before the hearing.

**Part 3 Miscellaneous matters****11 Fees**

The fee payable for a matter specified in Schedule 2 is the amount specified opposite the matter.

## **Schedule 1 Forms**

rule 4(1)

### **NORTHERN TERRITORY OF AUSTRALIA**

Taxation and Royalty Appeals Tribunal

#### **FORM 1**

rule 6

#### **NOTICE OF APPEAL**

##### **SECTION 105B OF *TAXATION (ADMINISTRATION) ACT***

Application No.

BETWEEN

[FULL NAME OF TAXPAYER] Appellant

and

THE \*COMMISSIONER/SECRETARY\* Respondent

TO THE TRIBUNAL AND THE RESPONDENT

#### **DETAILS OF THE APPEAL**

The appellant appeals against the \*following/attached\* decision made under [identify the Act under which the decision was made]: [identify the decision being appealed against or attach a copy of the notice of the decision issued by the decision maker]

The date on which the notice of the decision was issued: [specify]

Grounds of appeal: [state fully and in detail]

Determination sought by appellant: [state whether a variation of the decision or the substitution of another decision is sought and specify that variation or substituted decision]

\* Attached to this notice is material relevant to the appeal that was not before the decision maker when making the decision.

**\*APPLICATION FOR EXTENSION OF TIME FOR COMMENCING APPEAL**

\* The appellant seeks an extension of time for commencing this appeal. The reason for not commencing the appeal within 60 days after notice of the decision was issued is as follows: [state reasons]

[Signed]  
Appellant

Date:

1. This notice of appeal was lodged:

\*by the appellant in person.

\*for the appellant by [name of appellant's legal practitioner] of [name of firm], legal practitioner(s), of [business address in Australia including telephone, facsimile and reference numbers. If the legal practitioner is the agent of another legal practitioner, also insert the name of the principal's firm and business address, including telephone, facsimile and reference numbers.]

2. The address of the appellant is:



3.      The address for service of the appellant is – [If the appellant appeals in person, the address in 2. If the appellant appeals by a legal practitioner – the address in 1.]

4.      The address of the respondent is:

*Notes*

*The respondent is required by rule 7 to lodge a notice of response, and serve a copy on the appellant, no later than 14 days after being served with this notice of appeal.*

*The respondent is required by section 105E of the Act to lodge copies of specified documents, and serve copies of the documents on the appellant, as soon as practicable after being served with this notice of appeal.*

*\* Delete if inapplicable.*

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**NORTHERN TERRITORY OF AUSTRALIA**

Taxation and Royalty Appeals Tribunal

**FORM 2**

rule 7

**NOTICE OF RESPONSE BY DECISION MAKER**

PART V, DIVISION 3 OF *TAXATION (ADMINISTRATION) ACT*

TO THE TRIBUNAL AND THE RESPONDENT

TO THE TRIBUNAL AND THE APPELLANT

\*The Commissioner/The Secretary\* appears in this appeal.

The address for service is – [address for service]

Dated:

[signed]

\* *Delete if inapplicable*

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**Schedule 2**

rule 11

**FEEES IN RESPECT OF APPEALS**

| Rule No. | Matter in respect of which fee is prescribed | Fee  |
|----------|--|------|
| 6        | Lodgement of Form 1                          | \$10 |

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## ENDNOTES

### 1 KEY

Key to abbreviations

|                             |                              |
|-----------------------------|------------------------------|
| amd = amended               | od = order                   |
| app = appendix              | om = omitted                 |
| bl = by-law                 | pt = Part                    |
| ch = Chapter                | r = regulation/rule          |
| cl = clause                 | rem = remainder              |
| div = Division              | renum = renumbered           |
| exp = expires/expired       | rep = repealed               |
| f = forms                   | s = section                  |
| <i>Gaz</i> = <i>Gazette</i> | sch = Schedule               |
| hdg = heading               | sdiv = Subdivision           |
| ins = inserted              | SL = Subordinate Legislation |
| lt = long title             | sub = substituted            |
| nc = not commenced          |                              |

### 2 LIST OF LEGISLATION

#### *Taxation and Royalty Appeals Tribunal Rules (SL No. 9, 2005)*

|           |               |
|-----------|---------------|
| Notified  | 31 March 2005 |
| Commenced | 31 March 2005 |