

EXPOSURE-DRAFT

1 Inserts for
2 **Refunds**

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Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Schedule ?	The day this Act receives the Royal Assent.	

Schedule ?—Refunds

Taxation Administration Act 1953

1 After section 8AAZLG

9 Insert:

8AAZLGA Retaining refunds while Commissioner verifies information

12 *Commissioner may retain an amount*

- 13 (1) The Commissioner may retain an amount that he or she otherwise
14 would have to refund to an entity under section 8AAZLF, if:
- 15 (a) the entity has given the Commissioner a notification that
16 affects or may affect the amount that the Commissioner
17 refunds to the entity; and
 - 18 (b) the Commissioner is satisfied that it would be reasonable to
19 require verification of information that:
 - 20 (i) is contained in the notification; and
 - 21 (ii) relates to the amount that the Commissioner would have
22 to refund.
- 23 (2) The Commissioner must inform the entity that he or she has
24 retained the amount under subsection (1). He or she must do so
25 before:

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- 1 (a) in a case to which paragraph 8AAZLF(1)(a) applies—the
2 RBA interest day (within the meaning of section 12AF of the
3 *Taxation (Interest on Overpayments and Early Payments) Act*
4 *1983*) for the RBA surplus of the entity; or
5 (b) in any other case—the 30th day after the entity gives to the
6 Commissioner the notification mentioned in paragraph (1)(a)
7 of this section.
- 8 (3) The Commissioner may retain the amount under subsection (1)
9 until:
10 (a) the Commissioner becomes satisfied that it would no longer
11 be reasonable to require verification of the information; or
12 (b) there is a change to how much the Commissioner is required
13 to refund, as a result of:
14 (i) the Commissioner amending an assessment relating to
15 the amount; or
16 (ii) the Commissioner making or amending an assessment,
17 under Division 105 in Schedule 1, relating to the
18 amount; or
19 (c) the 60-day period starting on the day mentioned in
20 subsection (2) of this section ends;
21 whichever happens first.
- 22 (4) The period mentioned in paragraph (3)(c) (including the period as
23 extended by a previous application of this subsection) is extended
24 by the number of days during that period in relation to which the
25 following paragraphs apply:
26 (a) on or before the day, but during the period, the
27 Commissioner requests information for the purposes of
28 verifying the information mentioned in paragraph (1)(b);
29 (b) the Commissioner does not receive the requested information
30 before the day.
- 31 *Commissioner may retain amount beyond 60 days*
- 32 (5) If paragraph (3)(c) applies, the Commissioner may retain the
33 amount after the end of the period applicable under that paragraph,
34 if the Commissioner is satisfied that it would be reasonable to
35 require verification (or further verification) of the information
36 mentioned in paragraph (1)(b).
- 37 (6) The Commissioner must inform the entity that he or she has
38 retained the amount under subsection (5). He or she must do so
39 within 14 days after the end of the period.
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- 1 (7) The Commissioner may retain the amount under subsection (5)
2 until:
3 (a) the Commissioner becomes satisfied that it would no longer
4 be reasonable to require verification (or further verification)
5 of the information; or
6 (b) there is a change to how much the Commissioner is required
7 to refund, as a result of:
8 (i) the Commissioner amending an assessment relating to
9 the amount; or
10 (ii) the Commissioner making or amending an assessment,
11 under Division 105 in Schedule 1, relating to the
12 amount;
13 whichever happens first.

- 14 (8) In deciding whether to retain the amount under subsection (5), the
15 Commissioner must have regard to the following:
16 (a) the likelihood that the information contained in the
17 notification is inaccurate, and the likely extent of that
18 inaccuracy;
19 (b) the likelihood that the information was affected by:
20 (i) fraud or evasion; or
21 (ii) intentional disregard of a taxation law; or
22 (iii) recklessness as to the operation of a taxation law;
23 (c) whether retaining the amount is necessary for the protection
24 of the revenue, including the likelihood that the
25 Commissioner could recover any of the amount if the
26 information were found to be incorrect after the amount had
27 been refunded;
28 (d) any complexity that would be involved in verifying the
29 information;
30 (e) the impact of retaining the amount on the entity's financial
31 position;
32 (f) any other matter the Commissioner considers relevant.
- 33 (9) The entity may object to a decision of the Commissioner to retain
34 the amount under subsection (5) in the manner set out in Part IVC,
35 if the entity is dissatisfied with the decision.

36 Note: Interest on the amount may be payable under the *Taxation (Interest on*
37 *Overpayments and Early Payments) Act 1983.*

2 Before paragraph 14ZW(1)(ab)

38 Insert:
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1 (aad) if the taxation objection is made under subsection
2 8AAZLGA(9) of this Act (the Commissioner has retained a
3 refund while verifying information given to him or her)—the
4 period starting on the earlier of:

5 (i) the day the Commissioner informs the person under
6 subsection 8AAZLGA(6) that the Commissioner has
7 retained an amount under section 8AAZLGA; and

8 (ii) the 14th day after the end of the period applicable under
9 paragraph 8AAZLGA(3)(c);

10 and ending on the day (if any) on which the Commissioner
11 refunds the amount, or makes a decision that results in the
12 person becoming entitled to a refund of the amount; or

13 **3 At the end of section 14ZW**

14 Add:

15 (4) Without limiting paragraph (1)(aad), the following are taken for the
16 purposes of that paragraph to be decisions that result in the person
17 becoming entitled to a refund of the amount mentioned in that
18 paragraph:

19 (a) the Commissioner amending an assessment relating to the
20 amount;

21 (b) the Commissioner making or amending an assessment, under
22 Division 105 in Schedule 1, relating to the amount.