Updating tax determinations with new census population data

Consultation paper

August 2022

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# Introduction

With the release of the 2021 Census of Population and Housing (the 2021 census) by the Australian Bureau of Statistics, we have updated our population information concerning the Australian spectrum map grid (ASMG). To keep our tax arrangements current, we are proposing to amend the tax determinations to update the references from the 2016 census to the 2021 census.

The practical effect of the proposed changes is that spectrum licence taxes and apparatus licence taxes that are determined by the ‘$/MHz/pop’ calculation will be based on 2021 population data. While the proposed amendments are detailed below, Appendix A provides some examples to illustrate the changes.

## What are the tax determinations?

Spectrum licence taxes are set out in the [Radiocommunications (Spectrum Licence Tax) Determination 2021](https://www.legislation.gov.au/Series/F2021L01256) (the SLT Determination). These taxes recover the indirect costs of spectrum management activities and the costs of the electromagnetic energy (EME) program from spectrum licensees. In part, spectrum licence taxes are based on the population of the geographic area specified in the spectrum licence compared to total population of Australia.

Transmitter licence taxes are set out in the [Radiocommunications (Transmitter Licence Tax) Determination 2015](https://www.legislation.gov.au/Details/F2022C00687) (the TLT Determination). These taxes recover the indirect costs of spectrum management and provide incentives for efficient spectrum use. General information about the transmitter licences taxes can be found in the [apparatus licence fee schedule](https://www.acma.gov.au/publications/2020-06/guide/apparatus-licence-fee-schedule). However, it is noted that the proposed amendments outlined in this paper only relate to taxes where licensees are charged on a ‘$/MHz/pop’ basis.[[1]](#footnote-2) The $/MHz/pop construct applies to Public Mobile Telecommunications Service (PMTS) licences (i.e., those in Part 7A of the TLT Determination) and all area-wide licences (Part 7B of the TLT Determination).

### Why are the proposed amendments needed?

Currently, the tax determinations incorporate the 2016 census data by reference to the population document that existed at the time these instruments were made or amended. With the new population data now available, amendments to both determinations are required to refer to the updated document, and therefore the 2021 population figures.

The base rate of tax for PMTS Class B licences for the 850/900 MHz band (704A(3C) of the TLT Determination) of $0.1445/MHz (paired)/pop is based on the PMTS
935–960 MHz tax of $3,374,209 per MHz (item 12 of Table 702 of the TLT Determination), divided by the 2016 population of Australia, being 23,347,848.[[2]](#footnote-3)

With the update to the Census, the 2021 population of Australia within the ASMG, as calculated by the ACMA, is 25,362,351. To ensure that both the PMTS 935–960 MHz tax and the 850/900 MHz base rate of tax remain consistent, we are proposing a new base rate for the 850/900 MHz band of $0.133/MHz (paired)/pop. [[3]](#footnote-4) As no other base rates of tax specified in the TLT Determination have been calculated in the similar manner, the 850/900 MHz base rate is the only base rate that will change as a result of these proposals. The proposal to vary the 850/900 MHz base rate due to changes in census data is consistent with feedback received in the consultation on [Draft instruments for the 850/900 MHz band auction](https://www.acma.gov.au/consultations/2021-04/draft-instruments-850900-mhz-band-auction-consultation-162021).

## About the ASMG, HCIS and the population data

The hierarchical cell identifier scheme (HCIS) is a structured naming convention applied to the cells in the [ASMG 2012](https://www.acma.gov.au/australian-spectrum-map-grid) to provide a succinct way of describing groups of ASMG cells. All spectrum licences and transmitter licences that charge on a $/MHz/pop basis refer to the ASMG/HCIS cells.

You can find [more information about the HCIS](https://www.acma.gov.au/convert-hcis-area-description-placemark) on our website. On this page, you will also find links to the current 2016 population data for ASMG/HCIS cells. This page will be updated with the 2021 population data in the near future. For your convenience, links to the new 2021 population data can be found on the [landing page for this consultation](https://www.acma.gov.au/consultations/2022-08/updating-tax-determinations-new-census-population-data-consultation-282022).

## Proposed changes to the tax determinations

We are proposing to update the SLT Determination by amending:

The definition of ‘Australian population’ to 25,362,351. This is the total population of Australia within the ASMG as calculated by the ACMA and based on the 2021 census.

Note 3 associated with the definition of ‘HCIS population data document’ to refer to the 2021 census.

We propose that the changes of the SLT Determination will commence the day after we register the amending instrument. We anticipate making the amendment prior to the 11 October holding date.[[4]](#footnote-5)

The ACMA is proposing to update the TLT Determination in:

Part 7A – Assigned licences subject to a population based annual tax, by amending:

The definition of ‘population of an HCIS block’ in item 702A in Schedule 2 to refer to the population document that will include the 2021 census data existing at the time this amendment commences.

The base rate of tax for the 850/900 MHz band to $0.133/MHz (paired)/pop in subsection (3C) of item 704A (‘Base rates of tax for PMTS class B licences’) in Schedule 2.

Part 7B – Assigned area-wide licences subject to a population based annual tax, by amending:

The note associated with the definition of ‘population of HCIS block or HCIS cell’ in item 702B in Schedule 2 to refer to the population document that will include the 2021 census data existing at the time this amendment commences.

We propose that the changes to the TLT Determination will come into effect 50 days after we register the amending instrument. This time frame will allow for the invoicing of apparatus licence taxes.

# Issues for comment

This consultation does not pose specific questions. However, we welcome feedback from stakeholders on the issues raised in this consultation.

# Invitation to comment

## Making a submission

We invite comments on the issues set out in this discussion paper.

[Online submissions](https://www.acma.gov.au/have-your-say) can be made by uploading a document. Submissions in PDF, Microsoft Word or Rich Text Format are preferred.

Submissions by post can be sent to:

The Manager

Economics Advisory Section

Australian Communications and Media Authority

PO Box 78

Belconnen ACT 2616

The closing date for submissions is **COB, Monday 19 September 2022**.

Consultation enquiries can be emailed to spectrumpricing@acma.gov.au.

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Information on the *Privacy Act 1988,* how to access or correct personal information, how to make a privacy complaint and how we will deal with any complaints, is available in our [privacy policy](https://www.acma.gov.au/spectrum-licence-taxes).

# Appendix A: Examples and notes

The following are some examples of the proposed change of moving from the 2016 to 2021 census. These use the 1800 MHz PMTS Class B base rate of tax specified in Part 7A of the TLT Determination. However, as expected, populations will vary between the years of the census and the areas specified in the licences.

As noted in this paper, with the exception of the 850/900 MHz base rate of tax, the other base rates of tax will not change in the TLT Determination. Similarly, none of the base amounts of tax will change in the SLT Determination. As is our practice, we will send estimates of spectrum licence tax to spectrum licensees shortly.

**Example 1**

Assume a spectrum access that authorises the use of 20 MHz (paired) of spectrum in the frequency range 1805–1880 MHz (i.e., the 1800 MHz band), in a licence that specifies an HCIS cell (DQ5M) in relation to that spectrum access. The base rate of tax for a PMTS Class B licence that authorises the operation of a transmitter in the 1800 MHz band is $0.01/MHz/pop. The population of the Level 2 HCIS block DQ5M based on the 2016 census is 13,822, while for the 2021 census it is 14,543.

Therefore, the tax based on the 2016 census would approximately be:

Amount of tax (2016 census) = 20 MHz x $0.01/MHz/pop x 13,822 = $2,764

However, tax based on the 2021 census would approximately be:

Amount of tax (2021 census) = 20 MHz x $0.01/MHz/pop x 14,543 = $2,909

The estimated increase in apparatus licence tax of $145 is due to the increase in the population between the 2016 and 2021 census.

**Example 2**

This is similar to Example 1 with all the same assumptions, however this time the licence specifies the HCIS cell DQ6G. The population of the Level 2 HCIS block DQ5M based on the 2016 census is 3,335, while for the 2021 census it is 3,020.

Therefore, the tax based on the 2016 census would approximately be:

Amount of tax (2016 census) = 20 MHz x $0.01/MHz/pop x 3,335 = $667

However, tax based on the 2021 census would approximately be:

Amount of tax (2021 census) = 20 MHz X $0.01/MHz/pop X 3,020= $604

The estimated decrease in apparatus licence tax of $63 is due to the decrease in population between the 2016 and 2021 census.

1. The Radiocommunications (Receiver Licence Tax) Determination 2015 (the RLT Determination) does not include any $/MHz/pop taxes. Therefore, there are no proposed amendments to the RLT Determination. [↑](#footnote-ref-2)
2. The details of the original calculation were included on pages 47 and 48 of the [*Draft instruments for the 850/900 MHz band auction*](https://www.acma.gov.au/consultations/2021-04/draft-instruments-850900-mhz-band-auction-consultation-162021)consultation paper dated April 2021. [↑](#footnote-ref-3)
3. That is, $3,374,209 per MHz (paired) divided by 25,362,351 is $0.133/MHz (paired)/pop. [↑](#footnote-ref-4)
4. Spectrum licence taxes are imposed on 11 October each year. [↑](#footnote-ref-5)