



Western Australia

## **Income Tax Appeals Rules 1940**

Compare between:

[11 Nov 1998, 00-a0-05] and [04 Jul 2006, 00-b0-07]



Western Australia

INCOME TAX ASSESSMENT ACT 1937

**Income Tax Appeals Rules 1940**

## **Part 1 — Appeals from Commissioner's decision to the Supreme Court**

### **1. Statement from Commissioner to Supreme Court**

- (1) Where, in pursuance of the request made by a taxpayer under the provisions of section 170 of the *Income Tax Assessment Act 1937*, the Commissioner is required to forward the taxpayer's appeal, or to refer the decision of the Commissioner or to forward the objection of the taxpayer (as the case may be) to the Supreme Court, the Commissioner shall, for the purpose of complying with such request, file in the Central Office of the Supreme Court a printed or typewritten statement in quadruplicate containing the following particulars, namely: —
  - (a) the name and address of the taxpayer;
  - (b) full details of the taxpayer's objection and the grounds thereof as made by the taxpayer under section 168 of the Act and received by the Commissioner; and
  - (c) full details of the decision of the Commissioner in relation to such objection.
- (2) Within ten days after filing the said statement in the Central Office of the Supreme Court as aforesaid, the Commissioner shall serve notice thereof, together with a copy of the statement upon the taxpayer.

### **2. Taxpayer to give Commissioner notice of hearing date**

Within ten days after receiving notice from the Commissioner as aforesaid, the taxpayer shall —

- (a) set down the appeal for hearing at the next available sittings of the Supreme Court; and
- (b) give to the Commissioner in writing ten days' notice of the date of the sittings for which the appeal has been set down to be heard.

**3. Documentation to be provided by Commissioner**

- (1) When the Commissioner files the statement aforesaid in the Central Office of the Supreme Court as provided for in Rule 1 hereof, he shall also forward to the proper officer of the Court a copy of the assessment to which the appeal relates, including any amendment thereof, and of any other documents necessary for the hearing of the appeal.
- (2) If any dispute shall arise between the parties concerning the documents so to be forwarded, the Judge of the Supreme Court hearing the appeal may direct that any document not already forwarded shall be forwarded to the proper officer aforesaid.

## **Part 2 — Appeals from Board of Review to Full Court**

### **4. Notice of Appeal**

Appeals to the Full Court of the Supreme Court of the State from decisions of the Board of Review under subsection (5) of section 171 of the *Income Tax Assessment Act 1937*, shall be instituted by Notice of Appeal.

### **5. Time for service and filing of Notice**

Within thirty days of the Board of Review communicating its decision to the party desiring to appeal therefrom, such party shall —

- (a) serve one copy of the notice of appeal upon the opposite party;
- (b) serve one copy of the notice of appeal upon the Board of Review;
- (c) file a copy of the notice of appeal in the Central Office of the Supreme Court at Perth.

### **6. Contents and form of Notice**

The Notice of Appeal shall be entitled In the Full Court of the Supreme Court of Western Australia, and shall state: —

- (a) the nature of the decision of the Board of Review from which the appeal is brought;
- (b) whether the whole or part of the decision is appealed from and if part only, which part thereof;
- (c) the question or questions of law involved in the decision.

### **7. Board to send documents to Supreme Court Registrar**

Within ten days of the service upon the Board of Review of the notice of Appeal the Board of Review shall transmit to the Registrar of the Supreme Court: —

- (a) the materials before it;

- (b) a copy of its decision;
- (c) a copy of any statement made by the members of the Board of Review of the reasons for their decision.

**8. Transport to be provided by the appellant**

- (a) The appellant shall cause to be prepared for the use of the Full Court a transcript consisting of —
  - (1) the material notice or notices of assessment by the Commissioner;
  - (2) the taxpayer's objection thereto;
  - (3) the Commissioner's decision upon such objection;
  - (4) the taxpayer's request to the Commissioner to refer the Commissioner's decision to the Board of Review;
  - (5) the reference by the Commissioner to the Board of Review;
  - (6) the assessment, determination, and decision of the Board of Review;
  - (7) the statement, if any, of the reasons of the members of the Board of Review;
  - (8) so much of the materials before the Board of Review as the Registrar may require;

and the appellant shall for that purpose have access to the documents transmitted by the Board of Review to the Registrar of the Supreme Court.

- (b) The appellant, at least four days before the first day of the sittings at which the appeal is to be heard, shall leave with the Registrar of the Supreme Court three copies of such transcript and serve upon the respondent two copies thereof.

**9. Appeal heard in the next sittings of the Full Court**

The appeal shall be set down for hearing at the first sittings of the Full Court occurring after the expiration of twenty-one days from the filing of the notice of appeal.

***Income Tax Appeals Rules 1940***

**Part 2** Appeals from Board of Review to Full Court

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**10. Citation**

These Rules may be cited as the *Income Tax Appeals Rules 1940*.



**Income Tax Appeals Rules 1940**

**Notes**

- <sup>1.</sup> This is a compilation of the *Income Tax Appeals Rules 1940* and includes the amendments referred to in the following Table.

**Table of Rules**

Compilation table

<u>Rule Citation</u>	<u>Gazettal</u>	<u>Commencement</u>	<u>Miscell</u>
<i>Income Tax Appeals Rules 1940</i>	19 <del>July</del> <u>Jul</u> 1940 <del>pp</del> .1382-3	19 <del>July</del> <u>Jul</u> 1940	<b>Deleted Cells</b>
<u>These regulations were repealed as a result of the repeal of the <i>Income Tax Assessment Act 1937</i> by the <i>Statute Law Revision Act 2006</i> s. 3(1) (No. 37 of 2006) as at 4 Jul 2006 (see s. 2)</u>			