



Western Australia

Income Tax Appeals (Board of Review) 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 (Board of Review) Rules 1940

~~HIS Excellency the Lieutenant Governor in Council, acting in exercise of the powers conferred by subsection (1) of section 172 of the *Income Tax Assessment Act 1937* has been pleased to make rules for regulating the practice and procedure in relation to appeals dealt with by the Board of Review appointed under and for the purposes of Part V of the *Income Tax Assessment Act 1937*, as set out in the Schedule hereunder.~~

~~Rules for Regulating the Practice and Procedure in Relation to Appeals dealt with by the Board of Review appointed under and for the purposes of Part V of the *Income Tax Assessment Act 1937*.~~

1. Statement from Commissioner to Board of Review

- (1) Where in pursuance of the request made by a taxpayer under the provisions of section 170 of the Act 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 Board of Review, the Commissioner shall, for the purpose of complying with such request, furnish the Board of Review with 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

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- (c) full details of the decision of the Commissioner in relation to such objection, and the grounds of such decision.
- (2) When furnishing the statement aforesaid to the Board of Review, the Commissioner shall also furnish the taxpayer with a copy of such statement, either by delivering the same or sending it by post addressed to the taxpayer.

2. Board to notify taxpayer of time and place for review

- (1) After receipt of the statement aforesaid the Chairman of the Board of Review shall, subject to paragraph (2) of this rule, fix a day and time and place for the review by the said Board, and cause notices thereof in writing to be served upon the Commissioner and the taxpayer respectively.
- (2) The day and time for a review as fixed by the Board of Review shall be so fixed as to enable the Commissioner and the taxpayer to receive at least fourteen days' notice thereof, and the notice of the day and time so fixed to be served upon the Commissioner and the taxpayer shall be served upon them not less than fourteen days prior to the day fixed for the review.
- (3) A notice under this rule may be served either personally or by post, and, if served by post, service shall be effected by properly addressing, prepaying, and posting the notice as a letter to the address of the Commissioner, or to the address of the taxpayer, as the case may require, and, unless the contrary is proved, service shall be deemed to have been effected at the time when the letter would have been delivered in the ordinary course of past.

3. Order in which reviews conducted

- (1) All references for the purpose of review by the Board shall be numbered consecutively in the order in which they are made, and, unless the Chairman of the Board directs otherwise, the reviews shall take place in the order in which the references are received by the Board.

- (2) The sittings of the Board for the purpose of reviews shall be held in such place or places and at such time or times as are fixed by the Chairman of the Board.
- (3) The Board shall not be required to sit on public holidays, or during a yearly vacation commencing on the twenty-fifth day of December and ending on the next following twenty-first day of January.

4. Conduct of reviews by Board

- (1) Subject to the provisions of the Act, reviews by the Board shall be conducted in such manner as the Chairman of the Board from time to time directs.
- (2) Either party to a review by the Board may nominate a person to represent him at the review.
- (3) The Chairman of the Board may adjourn any review from time to time, as he thinks fit.

5. Evidence and attendance expenses

- (1) Subject to paragraph (2) of this rule, the Board: —
 - (a) shall take all oral evidence on oath or affirmation, and for that purpose the Chairman of the Board, or, in the absence of the Chairman, the acting Chairman, shall have power to administer oaths and affirmations; and
 - (b) may receive, without formal proof, a document containing any statement or particular which in the opinion of the Board is relevant to the question in issue in the review (not being a document which has been brought into existence solely for the purpose of the review) and may take into consideration such statement or particular.
- (2) In the exercise of the powers under section 225 of the Act conferred on the Board by virtue of subsection (5) of section 167 of the Act, the Chairman of the Board may by notice in writing require any person: —

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- (a) to furnish the Board with such information as in the opinion of the Chairman is necessary for the purpose of a review by the Board; and
- (b) to attend and give evidence before the Board, or before any officer authorised by the Chairman of the Board in that behalf, concerning his or any other persons's income or assessment, and may require him to produce all books, documents, and other papers whatever in his custody or under his control relating thereto —

and the Chairman of the Board may require the information or evidence to be given on oath or affirmation, and either verbally or in writing, and for that purpose the Chairman or the authorised officer aforesaid shall have power to administer an oath or affirmation.

- (3) The expenses to be allowed to any person required to attend and give evidence under paragraph (2) of this rule shall be those prescribed by regulation 55 of the regulations made under the Act in respect of persons required under section 225 of the Act to attend and give evidence before the Commissioner.

Provided that no expenses shall be allowed in pursuance of this paragraph of this rule to a person who is so required to attend in consequence of a request made by or on behalf of a taxpayer.

[Rule 5 amended by Gazette 15 November 1940 p.2051.]

6. Decisions to be available to parties

- (1) The Board shall forward copies of its decision on each review to the Commissioner and to the taxpayer concerned, and the Commissioner shall, unless the decision has been appealed from, give effect to the decision of the Board in the manner required by the Act.
- (2) The Board may from time to time compile and publish summaries of its decisions.

7. Chairman to decide times and places for attendance

Subject to paragraph (3) of rule 3 hereof, the members of the Board shall be in attendance at such time and at such place as is from time to time appointed by the Chairman of the Board for the performance of their duties.

8. Address of Board

Communications to the Board may be addressed to the Chairman of the Board, in the care of the State Commissioner of Taxation, Box A15, General Post Office, Perth.

9. Citation

These rules may be cited as the *Income Tax Appeals (Board of Review) Rules 1940*.

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Notes

¹ This is a compilation of the *Income Tax Appeals (Board of Review) 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 (Board of Review) Rules 1940</i>	1 March <u>Mar</u> 1940 p.295-6 15 November <u>Nov</u> 1940 p.2051	1 March <u>Mar</u> 1940	Deleted Cells

These rules were repealed as a result of the repeal of the *Income Tax Assessment Act 1937* by the *Statute Law Revision Act 2006* s. 3(1) (No. 37 of 2006) as at 4 Jul 2006 (see s. 2)