



# **Taxation Administration (Defence Related International Obligations and Other Matters — Indirect Tax Refunds) Determination 2018**

*Taxation Administration Act 1953*

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I, Christopher Pyne, Minister for Defence, make the following determination.

Dated 18 October 2018

Christopher Pyne  
Minister for Defence

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# Part 1—Preliminary

## 1 Name

This instrument is the *Taxation Administration (Defence Related International Obligations and Other Matters—Indirect Tax Refunds) Determination 2018*.

## 2 Commencement

This instrument commences on the day after this instrument is registered.

## 3 Authority

This instrument is made under section 105-120 in Schedule 1 to the *Taxation Administration Act 1953*.

## 4 Definitions

Note: An expression used in Schedule 1 to the *Taxation Administration Act 1953* has the same meaning as in the *Income Tax Assessment Act 1997* (see subsection 3AA(2) of the *Taxation Administration Act 1953*). The following expressions used in this instrument are defined in subsection 995-1(1) of the *Income Tax Assessment Act 1997*:

- (a) Defence Minister;
- (b) indirect tax;
- (c) tax invoice;
- (d) visiting force.

In this instrument:

***Act*** means the *Taxation Administration Act 1953*.

***Australia Singapore Military Training Initiative*** means the initiative between Australia and Singapore for unilateral military training activities by Singapore visiting forces in central and northern Queensland, and the acquisition of land and development of facilities and infrastructure to facilitate such training, as set out in the Memorandum of Understanding between the Government of Australia and the Government of the Republic of Singapore signed in Canberra on 13 October 2016.

***commissary*** includes any of the following:

- (a) a military sales facility;
- (b) an exchange facility;
- (c) an officers' club;
- (d) an enlisted person's club;
- (e) any other similar military facility.

***Defence Department*** means the Department administered by the Defence Minister.

***development activities*** means the activities described in Part III of the Memorandum of Understanding between the Government of Australia and the

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Government of the Republic of Singapore signed in Canberra on 13 October 2016.

***member of a civilian component of a visiting force*** has the same meaning as in the *Defence (Visiting Forces) Act 1963*.

Note: See subsection 5(3) of the *Defence (Visiting Forces) Act 1963*.

***member of a visiting force*** has the same meaning as in the *Defence (Visiting Forces) Act 1963*.

Note: See subsection 5(2) of the *Defence (Visiting Forces) Act 1963*.

## 5 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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## Part 2—Papua New Guinea

### 6 Acquisitions and payment of refund—vehicles and other goods

- (1) This section covers an acquisition of vehicles, equipment, weapons, armaments, provisions, or any other goods, that:
  - (a) is made by a visiting force of Papua New Guinea or a member of a visiting force of Papua New Guinea; and
  - (b) at the time of the acquisition, was intended for the official use of the visiting force of Papua New Guinea.
- (2) Subject to the condition in subsection (3), a refund of an amount equal to the amount (if any) of indirect tax borne in respect of the acquisition by or on behalf of the visiting force of Papua New Guinea, or by or on behalf of a member of the visiting force of Papua New Guinea, is payable.
- (3) Unless otherwise approved by the Defence Minister, a refund is only payable if the State of Papua New Guinea retains ownership of the goods acquired.
- (4) The Commissioner must pay the amount (if any) to the Defence Department on behalf of the visiting force of Papua New Guinea, or to the Defence Department on behalf of the member of the visiting force of Papua New Guinea.

Note: The amount (if any) of indirect tax in respect of an acquisition covered by subsection (1) is either paid by the Defence Department on behalf of the visiting force of Papua New Guinea (or member of the visiting force) or reimbursed by the Defence Department to the visiting force of Papua New Guinea (or member of the visiting force).

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## Part 3—Singapore

### 7 Acquisitions and payment of refund—fuels, oils and lubricants

- (1) This section covers an acquisition of fuels, oils or lubricants made on or after 1 July 2000, that:
  - (a) is made by the Government of Singapore or a person or body on behalf of that Government; and
  - (b) at the time of the acquisition, was intended for use in official vehicles, aircrafts or vessels of:
    - (i) a member of a visiting force of Singapore; or
    - (ii) a member of a civilian component of a visiting force of Singapore.
- (2) A refund of an amount equal to the amount (if any) of indirect tax borne in respect of the acquisition by or on behalf of the Government of Singapore is payable.
- (3) The Commissioner must pay the amount (if any) to the Defence Department on behalf of the Government of Singapore.

Note: The amount (if any) of indirect tax in respect of an acquisition covered by subsection (1) is either paid by the Defence Department on behalf of the Government of Singapore or reimbursed by the Defence Department to the Government of Singapore.

### 8 Acquisitions and payment of refund—development activities under the Australia Singapore Military Training Initiative

- (1) This section covers an acquisition made on or after 13 October 2016 under the Australia Singapore Military Training Initiative, that:
  - (a) is made by, or on behalf of, a visiting force of Singapore, or by a member of a visiting force of Singapore; and
  - (b) at the time of the acquisition, was intended for use in accordance with the Australia Singapore Military Training Initiative.
- (2) Subject to the limitation in subsection (3), a refund of an amount equal to the amount (if any) of indirect tax borne in respect of the acquisition by or on behalf of a visiting force of Singapore, or by or on behalf of a member of a visiting force of Singapore, is payable.
- (3) A refund is only payable for indirect tax derived from amounts paid by or on behalf of the Government of Singapore to cover the costs of development activities under the Australia Singapore Military Training Initiative.
- (4) The Commissioner must pay the amount (if any) to the Defence Department on behalf of the visiting force of Singapore, or to the Defence Department on behalf of the member of the visiting force of Singapore.

Note: The amount (if any) of indirect tax in respect of an acquisition covered by subsection (1) is paid by the Defence Department on behalf of the visiting force of Singapore (or member of the visiting force) out of the special account established for the purposes of the Australia Singapore Military Training Initiative. Any amount refunded by the Commissioner will be applied to this special account.



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## Part 4—United States of America

### Division 1—General

#### 9 Acquisitions and payment of refund—motor vehicles for members of visiting force

- (1) This section covers an acquisition of a motor vehicle (whether by purchase or lease) that:
  - (a) is made by a member of a visiting force of the United States of America; and
  - (b) at the time of the acquisition, was intended for the use (other than commercial use) of the member.
- (2) Subject to the conditions in subsection (3), a refund of an amount equal to the amount (if any) of indirect tax borne in respect of the acquisition by the member of a visiting force of the United States of America is payable.
- (3) A refund is only payable if:
  - (a) if the member who acquired the motor vehicle (the second motor vehicle):
    - (i) had acquired another motor vehicle in Australia (the first motor vehicle) to which subsection (4) applies; or
    - (ii) had imported another motor vehicle into Australia in respect of which no duty was payable under the *Customs Tariff Act 1995*; the military authorities of the United States of America have certified that the domestic circumstances of the member required the acquisition of the second motor vehicle; and
  - (b) the motor vehicle was manufactured or assembled in Australia; and
  - (c) the motor vehicle:
    - (i) remains in the ownership and possession of, and is used by, the member who acquired it for the period of 2 years after the date when it was acquired; or
    - (ii) is exported within that 2 year period; and
  - (d) the motor vehicle is not transferred to another person without the approval of the Defence Minister; and
  - (e) the claim for the refund:
    - (i) is authorised by, or on behalf of, the Defence Attaché of the United States of America; and
    - (ii) is given to the Defence Department with the tax invoice that relates to the acquisition.
- (4) This subsection applies to the first motor vehicle if:
  - (a) the motor vehicle was acquired before 1 July 2000 and no sales tax was paid in respect of the acquisition; or
  - (b) the motor vehicle was acquired on or after 1 July 2000 and a refund was paid in respect of the motor vehicle in accordance with:

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- (i) this instrument; or
  - (ii) the Taxation Administration (Defence Related International Obligations—Indirect Tax Refunds) Determination 2005.

- (5) The Commissioner must pay the amount (if any) to the Defence Department on behalf of member of the visiting force of the United States of America.

Note: The Defence Department pays the refunded amount to the member of the visiting force of the United States of America who made the acquisition.

## **10 Acquisitions and payment of refund—equipment and other property**

- (1) This section covers an acquisition of equipment, materials, supplies or other property (including real property), that:
  - (a) is made by the Government of the United States of America or a person or body on behalf of that Government; and
  - (b) at the time of the acquisition, was intended for the official use of a visiting force of the United States of America.
- (2) Subject to the conditions in subsection (3), a refund of an amount equal to the amount (if any) of indirect tax borne in respect of the acquisition by or on behalf of the Government of the United States of America is payable.
- (3) A refund is only payable if:
  - (a) the property acquired is not for resale;
  - (b) unless otherwise approved by the Defence Minister, the Government of the United States of America retains title in the property acquired.
- (4) The Commissioner must pay the amount (if any) to the Defence Department on behalf of the Government of the United States of America.

Note: The amount (if any) of indirect tax in respect of an acquisition covered by subsection (1) is either paid by the Defence Department on behalf of the Government of the United States of America or reimbursed by the Defence Department to the Government of the United States of America.

## **11 Acquisitions and payment of refund—goods for commissaries**

- (1) This section covers an acquisition of goods that:
  - (a) is made by the Government of the United States of America or a person or body on behalf of that Government; and
  - (b) at the time of the acquisition, was intended for use in, or sale by, a commissary of the United States of America.
- (2) Subject to the conditions in subsection (3), a refund of an amount equal to the amount (if any) of indirect tax borne in respect of the acquisition by or on behalf of the Government of the United States of America is payable.
- (3) A refund is only payable if, in the event the acquired goods are sold:
  - (a) they are sold only to:
    - (i) a member of a visiting force of the United States of America; or

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- (ii) a member of a civilian component of a visiting force of the United States of America; or
  - (iii) a dependant of a member mentioned in subparagraph (i) or (ii); and
- (b) they are not resold on the local market.
- (4) The Commissioner must pay the amount (if any) to the Defence Department on behalf of the Government of the United States of America.
- Note: The amount (if any) of indirect tax in respect of an acquisition covered by subsection (1) is either paid by the Defence Department on behalf of the Government of the United States of America or reimbursed by the Defence Department to the Government of the United States of America.

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## Division 2—Pine Gap and North West Cape

### 12 Acquisitions and payment of refund—equipment for use in construction, maintenance or operation of Joint Defence Facility Pine Gap or Harold E Holt Naval Communication Station

- (1) This section covers an acquisition of equipment, materials, supplies or other property (including real property), that:
  - (a) is made by the Government of the United States of America or a person or body on behalf of that Government; and
  - (b) at the time of the acquisition, was intended for use in the construction, maintenance or operation of:
    - (i) the Joint Defence Facility Pine Gap in the Northern Territory (the **Facility**); or
    - (ii) the Harold E Holt Naval Communication Station at North West Cape in Western Australia (the **Station**).
- (2) Subject to the conditions in subsection (3), a refund of an amount equal to the amount (if any) of indirect tax borne in respect of the acquisition by or on behalf of the Government of the United States of America is payable.
- (3) A refund is only payable if:
  - (a) the property acquired is not for resale;
  - (b) the Government of the United States of America has certified that the property acquired is for the use in the construction, maintenance or operation of the Facility or the Station;
  - (c) the property acquired has become the property of the Government of the United States of America before being used.
- (4) The Commissioner must pay the amount (if any) to the Defence Department on behalf of the Government of the United States of America.

**Note:** The amount (if any) of indirect tax in respect of an acquisition covered by subsection (1) is either paid by the Defence Department on behalf of the Government of the United States of America or reimbursed by the Defence Department to the Government of the United States of America.

### 13 Acquisitions and payment of refund—equipment to be incorporated or wholly consumed in construction, maintenance or operation of Joint Defence Facility Pine Gap or Harold E Holt Naval Communication Station

- (1) This section covers an acquisition of equipment, materials, supplies or other property (including real property), that:
  - (a) is made by the Government of the United States of America; and
  - (b) at the time of the acquisition, was intended to be incorporated into, or wholly consumed in the construction, maintenance or operation of:
    - (i) the Joint Defence Facility Pine Gap in the Northern Territory; or

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(ii) the Harold E Holt Naval Communication Station at North West Cape in Western Australia.

- (2) A refund of an amount equal to the amount (if any) of indirect tax borne in respect of the acquisition by the Government of the United States of America is payable.
- (3) The Commissioner must pay the amount (if any) to the Defence Department on behalf of the Government of the United States of America.

Note: The amount (if any) of indirect tax in respect of an acquisition covered by subsection (1) is either paid by the Defence Department on behalf of the Government of the United States of America or reimbursed by the Defence Department to the Government of the United States of America.

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## **Schedule 1—Repeals**

### ***Taxation Administration (Defence Related International Obligations— Indirect Tax Refunds) Determination 2005***

#### **1 The whole of the Determination**

Repeal the Determination.