



Our reference:

Contact officer:

Telephone:

Facsimile:

Your reference:

Issue date: 1 June 2007

Dear Sir/Madam

**NOTICE UNDER SECTION 260-5 OF SCHEDULE 1 OF THE TAXATION
ADMINISTRATION ACT 1953**

Our records show that an amount of \$ _____ being a debt payable to the Commonwealth, remains unpaid on your account with this office. As a consequence of this, a notice under section 260-5 of Schedule 1 of the *Taxation Administration Act 1953* has been issued to:

A copy of the notice is attached.

Under the attached notice _____ is legally required to forward money due to you directly to this office. In this instance, we have requested _____ to forward us an amount not greater than \$ _____. The full amount of \$ _____ remains due and payable and may be subject to further recovery action, including legal action. For further details about the requirements of the notice, please refer to the attached documents

If you wish to make full payment of the debt or if you wish to discuss this notice, please phone us on 13 28 69 and ask for _____ on extension _____, or dial direct to _____

Yours faithfully,

Margaret Crawford
Chief Operating Officer and
Deputy Commissioner of Taxation

Per



Our reference:

Contact officer:

Telephone:

Facsimile:

Your reference:

Issue date: 1 June 2007

NOTICE TO PAY MONEY TO THE COMMISSIONER OF TAXATION UNDER SECTION 260-5 OF SCHEDULE 1 OF THE TAXATION ADMINISTRATION ACT 1953.

D.O.B

Possible Bank Account Nos.

This document is a notice under section 260-5 of Schedule 1 of the *Taxation Administration Act 1953* (TAA 1953) requiring you to pay money to the Commissioner of Taxation. A copy of the relevant Legislation is enclosed. Below are the procedures you must follow to ensure that you comply with this notice.

Payments

Payments in compliance with this notice should be forwarded to the attention of the contact officer at the address shown at the top of this notice.

Indemnity

In complying with this notice, you are legally protected by section 260-15 of Schedule 1 of the TAA 1953 which provides that any payment made under subdivision 260-A is taken to have been authorised by

Expiration of this notice

This notice will remain in force until 31 August 2007 or until any money not yet due to (e.g. money in a term deposit account) becomes payable under this notice, whichever is the later.

Inquiries

If you are unsure about your obligations under this notice or if you wish to confirm that payment is still required, please phone us on 13 28 69 and ask for _____ on extension _____, or dial direct to



Notice

COMMONWEALTH BANK OF AUSTRALIA, YOU are a third party who owes, or may later owe, money ("the available money") to _____ ("the debtor"), of (or previously of) _____, who, in terms of section 260-5 of Schedule 1 of the *Taxation Administration Act 1953* has a debt payable to the Commonwealth of \$ _____.

In exercise of powers conferred on me as Deputy Commissioner of Taxation by delegation from the Commissioner of Taxation under section 8 of the *Taxation Administration Act*, YOU, COMMONWEALTH BANK OF AUSTRALIA, ARE REQUIRED TO PAY TO THE COMMISSIONER OF TAXATION the sum of \$ _____ or, if the available money is less than \$ _____, the whole of the available money.

If you now owe the available money to the debtor, the payment to the Commissioner of Taxation is to be made IMMEDIATELY. If you do not owe the available money to the debtor but you will later owe it to the debtor, the payment to the Commissioner of Taxation is to be made immediately the money becomes owing to the debtor.

For the purpose of section 260-5 of Schedule 1 of the *Taxation Administration Act*, a third party is taken to owe money (the available money) to the debtor if the third party:

- (a) is an entity by whom the money is due or accruing to the debtor; or
- (b) holds the money for or on account of the debtor; or
- (c) holds the money on account of some other entity for payment to the debtor; or
- (d) has authority from some other entity to pay the money to the debtor.

The third party is so taken to owe the money to the debtor even if:

- (e) the money is not due, or is not so held, or payable under the authority, unless a condition is fulfilled; and
- (f) the condition has not been fulfilled.

If the debt (or any part of the debt) is paid by the debtor or another entity before a payment is made by you under this notice, I will notify you of that fact and any amount that you are required to pay under this notice will be reduced by the amount so paid.

WARNING

You are legally required to comply with this notice. Should you receive instructions from the debtor or any other party regarding payment which are in contravention of this notice, please notify this office immediately.

The Legislation imposes severe penalties upon those who do not comply with its requirements. A penalty of 20 penalty units is prescribed for a failure to comply with the notice. Under section 4AA of the *Crimes Act 1914* the current value of a penalty unit is \$110.

In addition to imposing a penalty on a person convicted of an offence in relation to failing to pay an amount under the notice, the court may order the person to pay to the Commissioner an amount not exceeding that amount.

Dated this First day of June 2007.

Margaret Crawford
Deputy Commissioner of Taxation and
Delegate of the Commissioner of Taxation
p.p.



Legislation

TAXATION ADMINISTRATION ACT 1953

SCHEDULE 1

SECTION 260-5 -- COMMISSIONER MAY COLLECT AMOUNTS FROM THIRD PARTY

- 260-5(1) *Amount recoverable under this Subdivision*
This Subdivision applies if any of the following amounts (the *debt*) is payable to the Commonwealth by an entity (the *debtor*) (whether or not the debt has become due and payable):
- an amount of a tax-related liability;
 - a judgment debt for a tax-related liability;
 - costs for such a judgment debt;
 - an amount that a court has ordered the debtor to pay to the Commissioner following the debtor's conviction for an offence against a taxation law.
- 260-5(2) *Commissioner may give notice to an entity*
The Commissioner may give a written notice to an entity (the *third party*) under this section if the third party owes or may later owe money to the debtor.
- 260-5(3) *Third party regarded as owing money in these circumstances*
The third party is taken to owe money (the *available money*) to the debtor if the third party:
- is an entity by whom the money is due or accruing to the debtor; or
 - holds the money for or on account of the debtor; or
 - holds the money on account of some other entity for payment to the debtor; or
 - has authority from some other entity to pay the money to the debtor.
- The third party is so taken to owe the money to the debtor even if:
- the money is not due, or is not so held, or payable under the authority, unless a condition is fulfilled; and
 - the condition has not been fulfilled.
- 260-5(4) *How much is payable under the notice*
A notice under this section must:
- require the third party to pay to the Commissioner the lesser of, or a specified amount not exceeding the lesser of:
 - the debt; or
 - the available money; or
 - if there will be amounts of the available money from time to time – require the third party to pay to the Commissioner a specified amount, or a specified percentage, of each amount of the available money, until the debt is satisfied.



- 260-5(5)** *When amount must be paid*
The notice must require the third party to pay an amount under paragraph (4)(a), or each amount under paragraph (4)(b):
- (a) immediately after; or
 - (b) at or within a specified time after;
- the amount of the available money concerned becomes an amount owing to the debtor.
- 260-5(6)** *Debtor must be notified*
The Commissioner must send a copy of the notice to the debtor.
- 260-5(7)** *Setting-off amounts*
If an entity other than the third party has paid an amount to the Commissioner that satisfies all or part of the debt:
- (a) the Commissioner must notify the third party of that fact; and
 - (b) any amount that the third party is required to pay under the notice is reduced by the amount so paid.
- 260-10 Notice to Commonwealth, State or Territory**
If the third party is the Commonwealth, a State or a Territory, the Commissioner may give the notice to a person who:
- (a) is employed by the Commonwealth, or by the State or Territory (as appropriate); and
 - (b) has the duty of disbursing public money under a law of the Commonwealth, or of the State or Territory (as appropriate).
- 260-15 Indemnity**
An amount that the third party pays to the Commissioner under this Subdivision is taken to have been authorised by:
- (a) the debtor; and
 - (b) any other person who is entitled to all or a part of the amount;
- and the third party is indemnified for the payment.
- 260-20 Offence**
- (1) The third party must not fail to comply with the Commissioner's notice.
Penalty: 20 penalty units
Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.
Note 2: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.
 - (2) The court may, in addition to imposing a penalty on a person convicted of an offence against subsection (1) in relation to failing to pay an amount under the notice, order the person to pay to the Commissioner an amount not exceeding that amount.