

FACT SHEET – TAXATION DECISION REVIEW

A new independent taxation and mineral royalty administrative appeals tribunal is to be established in 2004-05, to provide an alternative and inexpensive option to appeal decisions of the Commissioner of Taxes following taxpayers' objections to a tax assessment. The current appeal route is the Supreme Court.

Current Process

In 2002-03, there were some 38 000 tax transactions. There were 28 objections in the same period.

If a taxpayer disagrees with a tax assessment (say, on payroll tax or stamp duty owed), an objection can be lodged with the Commissioner of Taxes to reconsider the assessment. If a taxpayer remains dissatisfied with the Commissioner's review of the original assessment, an appeal can be lodged with the Supreme Court.

Objecting, in the first instance, to the Commissioner of Taxes allows him to rectify mistakes quickly, identify areas of the law which result in unintended or adverse outcomes, and to better inform taxpayers of the law.

Since July 2001, the Commissioner has determined an average of 34% of taxpayers' objections in favour of the taxpayer. The tax was then refunded or the matter resolved outside the judicial process.

A further 15% were withdrawn by the objector, once the basis for decision was explained and more information was provided about how the assessment was made.

This means that, on average, 49% of objections are either decided in favour of the taxpayer or are explained to the taxpayer's satisfaction such that the decision or assessment no longer aggrieves them.

Sometimes, the Commissioner finds that inappropriate outcomes have resulted from applying the law, and over the past 2 years, this has led to:

- 4 changes to the legislation to rectify inequities;
- 7 waivers to correct anomalous tax liabilities; and
- a legislation change to address avoidance practices.

In addition, it is worth noting that more than one third (36%) of objections to the Commissioner were prepared by taxpayers themselves without incurring the cost of representation by a tax professional.

New Tribunal Process

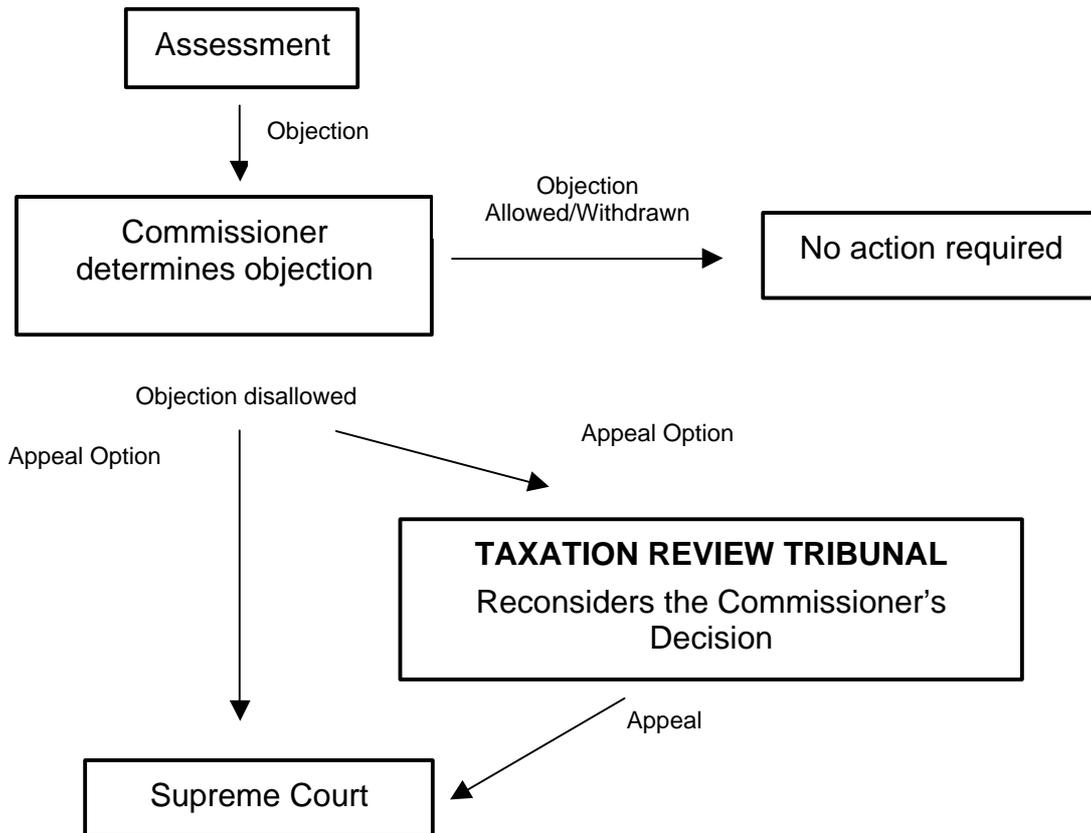
The new administrative appeals tribunal (Magistrate of the Local Court) will provide an inexpensive and speedier avenue to appeal the Commissioner's decision on an objection that doesn't require costly legal representation as would be the case if appealing to the Supreme Court. (The Supreme Court

appeal option is still available, but the tribunal will provide an extra, optional step in the appeal process.)

An appeal is to be considered “on the papers” (that is, on the basis of all previously considered material), however it will also allow further submissions or grounds for objections to be lodged and considered.

Consistent with all other States, the new process will provide a choice of appeal to the tribunal or court.

A diagrammatic representation of the process is presented here.



The first step in the review process will continue to be lodging an objection with the Commissioner of Taxes, as in all other States. This allows the Commissioner to quickly rectify mistakes, identify and act on areas where greater taxpayer awareness may be required, and to recommend changes to the tax legislation where outcomes are unfair or anomalous.

These measures are also to apply to mineral royalty objection matters.

Legislative amendments to establish the new tribunal are to be prepared and introduced during 2004-05.