

EXPOSURE DRAFT

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Inserts for
**Treasury Laws Amendment (Measures
for Consultation) Bill 2022: Increased
Tribunal powers for small business
taxation decisions**

| Commencement information | | |
|---------------------------------|---|---------------------|
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. Schedule 1 | The day after this Act receives the Royal Assent. | |

1 **Schedule 1—Increased Tribunal powers for**
2 **small business tax decisions**
3

4 *Taxation Administration Act 1953*

5 **1 Section 14ZQ**

6 Insert:

7 *small business taxation assessment decision* means a taxation
8 decision that is:

- 9 (a) an assessment of tax-related liabilities (as defined in
10 section 255-1 in Schedule 1) relating in whole or in part to
11 carrying on a business; and
12 (b) made in relation to a small business entity (within the
13 meaning of the *Income Tax Assessment Act 1997*).

14 **2 At the end of section 14ZZB**

15 Add:

- 16 (3) However, despite subsection (1), section 41 of the AAT Act
17 applies in relation to a reviewable objection decision that relates to
18 a small business taxation assessment decision, subject to the
19 modifications set out in section 14ZZH.

20 **3 After section 14ZZG**

21 Insert:

22 **14ZZH Modification of section 41 of the AAT Act**

23 Section 41 of the AAT Act applies in relation to a reviewable
24 objection decision that relates to a small business taxation
25 assessment decision as if the following subsection were inserted
26 after subsection (3):

- 27 “(3A) The Tribunal must not make an order under subsection (2), or an
28 order varying or revoking an order in force under subsection (2),
29 unless:
30 (a) the proceeding before the Tribunal is in the Small Business
31 Taxation Division of the Tribunal; and
32 (b) if the party requesting the order is not the Commissioner—
33 the party satisfies the Tribunal of all the following matters in

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- 1 relation to the making of the order, when considered in the
2 context of both the particular circumstances of the decision
3 under review and the overall taxation system:
- 4 (i) the order is **unlikely to prejudice or unduly restrict the**
5 **Commissioner's administration of a taxation law;**
 - 6 (ii) the order is **unlikely to undermine the objective or**
7 **purpose of a taxation law or a provision of a taxation**
8 **law, or the integrity of the taxation system as**
9 **administered by the Commissioner;**
 - 10 (iii) the application for review and the request for making
11 the **order is not frivolous, vexatious, misconceived,**
12 **lacking in substance or otherwise intended to impede**
13 **the proper administration of a taxation law."**

14 **4 Section 14ZZM**

15 Before "The", insert "(1)".

16 **5 At the end of section 14ZZM**

17 Add:

- 18 (2) However, the application of subsection (1) in relation to a small
19 business taxation assessment decision is subject to any order made
20 under section 41 of the AAT Act (as modified by section 14ZZH of
21 this Act) in relation to the decision.

22 **6 Application**

23 The amendments made by this Schedule apply in relation to
24 applications for review made on or after the commencement of this
25 Schedule.