



Administrative
Appeals Tribunal

AAT Bulletin

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The *AAT Bulletin* is a weekly publication containing information about recently published decisions and appeals against decisions in the AAT's General, Freedom of Information, National Disability Insurance Scheme, Security, Taxation & Commercial and Veterans' Appeals Divisions. The Bulletin also regularly includes information about decisions of interest recently published in the AAT's Migration & Refugee Division. It occasionally includes information on legislative changes that affect the AAT.

It is recommended that the Bulletin be read on-line. This has the advantage of allowing the reader to use hyperlinks to access the full text of cases and other internet sites mentioned in the Bulletin.

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AAT Recent Decisions

This section of the Bulletin provides information about all decisions recently published in the AAT's General, Freedom of Information, National Disability Insurance Scheme, Security, Taxation & Commercial and Veterans' Appeals Divisions as well as about select decisions recently published in the Migration & Refugee Division. Only AAT decisions that have been published on [AustLII](#) have been included. Full copies of the decisions can be accessed through the hyperlinks provided below.

Social Security

[Cannon; Secretary, Department of Social Services and \(Social services second review\)](#) [2015] AATA 1028 (13 October 2015); Deputy President J W Constance

Family Tax Benefit – top-up payments – whether Applicant eligible for top-up payment – tax return lodgement requirements not met – whether special circumstances exist to allow extension of time for tax return lodgement – decision set aside and substituted

[Incicau and Secretary, Department of Social Services \(Social services second review\)](#) [2016] AATA 3 (6 January 2016); Mr C Ermert, Member

Disability support pension – qualification period – physical, intellectual or psychiatric impairments – whether impairments attracted a rating of 20 points or more – continuing inability to work – decision affirmed

[Marsh and Secretary, Department of Social Services \(Social services second review\)](#) [2016] AATA 2 (5 January 2016); Senior Member AF Cunningham

Disability support pension - accepted conditions of strabismus, depression, psoriasis, patella femoral syndrome – impairment rating – severe impairment – inability to work requirement not satisfied – decision under review affirmed.

[Whitby and Secretary, Department of Health \(Social services second review\)](#) [2015] AATA 1026 (24 December 2015); Dr J Popple, Senior Member

Assets test – residential care subsidy – whether loan deducted from value of refundable deposit – whether loan is a charge or encumbrance – asset is not disregarded – decision set aside and remitted.

Taxation

[Sandbach and Commissioner of Taxation \(Taxation\)](#) [2015] AATA 1024 (24 December 2015); Deputy President FJ Alpins

Income tax – deductions – settlement of proceedings concerning loans made to partnership and related company – equitable assignment of lenders' rights against taxpayer partner to company not at arm's length to taxpayer – whether interest on loans "incurred" for purposes of s 8-1 of *Income Tax Assessment Act 1997* (Cth) in subsequent years of income – whether deductions allowable for tax losses of earlier income years under Div 36 – whether onus of proof discharged for purposes of Pt IVC of *Taxation Administration Act 1953* (Cth)

Appeals

This section of the Bulletin provides information about appeals that have been lodged or finalised against decisions in the AAT's General, Freedom of Information, National Disability Insurance Scheme, Security, Taxation & Commercial and Veterans' Appeals Divisions. Information is only included about appeals relating to AAT decisions that have been published on [AustLII](#). Full copies of the decisions can be accessed through the hyperlinks provided below.

Appeals lodged

CASE NAME	AAT REFERENCE
Comcare v Wuth	[2015] AATA 947
Delis & Anor v Tax Practitioners Board	[2015] AATA 820
Confidential v PJCW & Anor	[2015] AATA 443

Appeals finalised

CASE NAME	AAT REFERENCE	COURT REFERENCE
Comcare v Power	[2015] AATA 471	[2015] FCA 1502

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