



 [Print whole section](#)

Reference guide for private rulings

This reference guide will help you complete the private ruling application form.

Last updated 26 September 2024

Use this reference guide to:

- complete a private ruling application form
- apply for administratively binding advice (ABA).

Only apply if you are seriously considering the scheme or circumstance. We can't make a ruling on a hypothetical, speculative or insufficiently developed scheme.

How to complete the private ruling application form



Use these instructions to help you complete the private ruling application form.

ATO staff style guide for private rulings



How to apply the style guide when writing documents.

Ruling examples



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How to complete the private ruling application form

Use these instructions to help you complete the private ruling application form.

Last updated 26 September 2024

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Section B: Contact details

Section C: Application details

Section D: Your ruling

Section E: Declaration

Section F: How to lodge your application

Section A: Taxpayer details

- [Is this taxpayer an individual or an entity?](#)
- [Is this taxpayer registered for GST?](#)

This section provides details of who the advice is for. Complete the fields for as many taxpayers as required.

Is this taxpayer an individual or an entity?

An entity can be a company, partnership, trust or super fund. Where you're seeking advice about indirect taxes (GST, wine tax or the luxury car tax), an entity can also be a member or representative member of a GST group, or a participant in a GST joint venture.

Is this taxpayer registered for GST?

If yes, indicate whether the business is registered as a GST branch, and if so the details of the parent entity.

Section B: Contact details

Provide the details of the person we can contact if we have questions about the application.

Indicate the preferred contact method (noting the message about email contact) and how the form will be lodged. If the contact person is not the individual or entity the advice will apply to, specify if they are authorised to act for the taxpayer in this matter.

If you're a tax professional, include your registered agent number and practice name.

Section C: Application details

- [What interactions have you had with the ATO for the issues raised in the application](#)
- [What is the subject of the advice](#)
- [What is the period or periods this application applies for](#)

What interactions have you had with the ATO for the issues raised in this application?

If an audit has taken place or you've been notified of a proposed audit, include the ATO reference number and the name of the tax officer involved (if known).

If you've asked for oral or written advice or a ruling on any of the issues that you're now seeking advice on, include the ATO reference number and the date of the ruling or advice.

Otherwise, select 'No interactions'.

What is the subject of the advice?

Select the relevant subject or subjects of your advice or select 'Other' if it isn't listed.

What is the period or periods this application applies for?

Provide the income years or other accounting periods to be covered by the advice.

Section D: Your ruling

- [What type of application would you like to submit](#)
- [If you give information about the facts and circumstances](#)
- [If you provide your own detailed reasoning](#)

What type of application would you like to submit?

You can choose to either:

- provide information about the facts for us to determine the advice
- include your own detailed reasoning and legislative references to support your application, if you are confident in how the law applies.

Providing information about the facts and circumstances

You'll need to provide the following:

- List the questions you want us to address. Structure them to allow a 'yes' or 'no' answer. An example is 'Will the travel be an allowable deduction?'. We can only give advice about **specific tax laws** or on **certain topics**.
- Include a full description of the facts or circumstances – all facts, assumptions, transaction dates and names of other parties actively involved. These details need to be reasonably certain.
- You may need to include an assumption if both of the following apply
 - An issue requires you to know or assert a fact.
 - It is impossible to verify the fact with reasonable certainty.
- If you include an assumption, also include the reason why you made the assumption.
- Include any:
 - other information about how you think the law applies to the scheme
 - research and analysis you have done.

You can find **details of what to include** for many categories of private ruling applications. Include this information or relevant extracts from the documents in your description.

Providing your own detailed reasoning

You can choose to provide your detailed reasoning on the form itself or attach a separate document. For help developing and formatting this reasoning, see **ATO staff style guide for private rulings and Ruling examples**.

If you're providing your own reasoning (either on the form or separately), you should detail the following:

- List and number the questions you want us to address. Include the relevant legislative provision and structure it to allow a 'yes' or 'no' answer. An example is 'Will the travel be an allowable deduction under section 8-1 of the *Income Tax Assessment Act 1997*?' We can only give advice about **specific tax laws** or on **certain topics**.
- Record a 'Yes' or 'No' answer for each question you have raised.
- Provide a full description of the relevant facts or circumstances. Include all material facts, assumptions, transaction dates and the names of other parties actively involved. These details need to be reasonably certain as they will define the scheme that is the subject of the advice.
- The relevant facts or circumstances can be an outline of steps in a proposed transaction. Material facts are facts that determine how the provision applies or does not apply. Our website provides details of **supporting information** that is required for many categories of private ruling applications. You should ensure you provide this information or include relevant extracts from the documents in your description.
- Do not include subjective judgment or opinions or statements that are subject to contention.
- You may need to include an assumption where an issue requires you to know or assert a fact, and it is impossible to verify the fact with reasonable certainty. If you have to include an assumption, you should also include the reason why you made the assumption.
- List the legislative provisions the advice will be covering.

- A reason for decision is required for each question in the advice application. This should contain
 - a summary that gives a brief statement of the decision, for example, 'the travel will be an allowable deduction under section 8-1 of the ITAA 1997'
 - detailed reasoning on how you reached the answers to your questions. For example, start with the relevant legislation, case law and any published views or rulings by the Commissioner of Taxation.

Apply the facts and circumstances outlined above to these authorities to arrive at a conclusion.

Section E: Declaration

You must sign the declaration if you're lodging the application by fax or post.

If you're lodging the application by Online services for business or Online services for agents, type your name into the box.

Section F: How to lodge your application

Note that fax or post options will not appear unless you selected fax or post in section B. Alternatively online service options will not appear unless you selected this option in section B.

If you are lodging by fax or post, select the entity type that corresponds to the option you chose in section A of the form.

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ATO staff style guide for private rulings

How to apply the style guide when writing documents.

Last updated 26 September 2024

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About the Style guide

How ATO staff refer to legislation

How ATO officers refer to cases

How ATO officers refer to documents we produce

How ATO officers refer to electronic material

ATO officers' general style requirements

About the Style guide

This style guide is a copy of the standards that our officers apply when writing documents such as private rulings. When we say 'you' we are referring to ATO staff.

How ATO staff refer to legislation

- [General approach](#)
- [Referring to an Act in an abbreviated form](#)
- [Referring to multiple elements of an Act](#)
- [Regulations](#)
- [Bills \(legislation not yet passed\)](#)
- [Explanatory Memoranda](#)
- [Repealed Acts](#)
- [International tax agreements](#)
- [Legislative determinations](#)

General approach

When legislation is cited in text, apply the most specific appropriate reference of the piece of legislation that is used. You need to cite the short title of the Act, not the long title.

Example of how to cite legislation

Title	How to cite
Long title	<i>Income Tax Assessment Act 1997</i> . An Act about income tax and related matters.
Short title	<i>Income Tax Assessment Act 1997</i>

Where necessary for distinguishing purposes, different elements of the legislation (in ascending order) will need to be included in the citation. For example:

- Section 136AD of the *Income Tax Assessment Act 1936*
- Division 13 of Part III of the *Income Tax Assessment Act 1936*
- Section 358-5 of Schedule 1 to the *Taxation Administration Act 1953*
- Part 5-5 of Schedule 1 to the *Taxation Administration Act 1953*.

It's permissible to refer to an Act at the start of a report (or section of a report, such as the Explanation or Reasons for decision) stating that all references are to that Act. For example, 'All references are to the *Income Tax Assessment Act 1997* (ITAA 1997)'.

If more than one Act is being referenced, it's acceptable to write 'All references are to the *Income Tax Assessment Act 1997* (ITAA 1997) unless otherwise stated'.

To avoid confusion, when referring to specific parts of an Act (such as a section or subsection) abbreviations, such as 's' or 'ss', should not be used.

Referring to an Act in an abbreviated form

When you wish to refer to an Act in an abbreviated manner the abbreviation should be referred to the first time you cite the Act. The abbreviation should then be used thereafter, for example *Income Tax Assessment Act 1936* (ITAA 1936).

Care should be taken to cite the full title of the relevant Act followed by a meaningful abbreviation, and not to invent legislation, for example 'the Tax Act'. Spelling and capitalisation must be exactly as the name of the Act. To achieve consistency, the following abbreviations for legislation should be used:

- GST Act – *A New Tax System (Goods and Services Tax) Act 1999*
- ADJR – *Administrative Decisions (Judicial Review) Act 1977*
- DAFGSA – *Diesel and Alternative Fuels Grants Scheme Act 1999*
- FBTA – *Fringe Benefits Tax Assessment Act 1986*
- ITAA 1936 – *Income Tax Assessment Act 1936*
- ITAA 1997 – *Income Tax Assessment Act 1997*
- ITR 1986 – *Income Tax Rates Act 1986*
- Agreements Act – *International Tax Agreements Act 1953*
- PRRTAA – *Petroleum Resource Rent Tax Assessment Act 1987*
- SGAA – *Superannuation Guarantee (Administration) Act 1992*
- SISA – *Superannuation Industry (Supervision) Act 1993*
- TAA – *Taxation Administration Act 1953*.

When abbreviating Acts which have the same or similar abbreviations to popular Acts – for example, ITAA can be Income Tax Assessment Act or International Tax Agreements Act – you must use abbreviations that don't mislead the reader.

Referring to multiple elements of an Act

Within one paragraph

If a section or subsection, Part or Division or similar, is referred to multiple times in one paragraph, the Act from which the section (or similar) is drawn only needs to be cited at the first use in each paragraph, providing that only sections from the one Act are referred to in that paragraph.

If that paragraph contains multiple derivatives of a section (or similar) the Act from which it is drawn is also only cited in the first instance.

Example: quoting the same subsection

Subsection 273(9) of the ITAA 1936 expands the scope of subsection 273(2) so that it applies to non-share dividends. Paragraph 273(9)(a) provides that section 273 applies to a non-share equity interest in the same way as it applies to a share,

paragraph 273(9)(b) provides that section 273 applies to an equity holder in the same way as it applies to a shareholder and paragraph 273(9)(c) provides that section 273 applies to a non-share dividend in the same way as it applies to a dividend.

Subsection 273(9) of the ITAA 1936 expands the scope of subsection 273(2) so that it applies to non-share dividends. Paragraph 273(9)(a) provides that section 273 applies to a non-share equity interest in the same way as it applies to a share, paragraph 273(9)(b) provides that section 273 applies to an equity holder in the same way as it applies to a shareholder and paragraph 273(9)(c) provides that section 273 applies to a non-share dividend in the same way as it applies to a dividend.

Example: quoting the same Act

'Foreign tax' is defined in subsection 6AB(2) of the ITAA 1936 to include income tax imposed by a law of a foreign country. In order to be considered a creditable income tax for the purposes of subsection 160AF(1) of the ITAA 1936, a foreign tax must be directed at the taxpayer's net income or gain. In this case, the tax was not imposed by a law of a foreign country in a way that meets the definition in subsection 6AB(2).

If the above paragraph was extended to include a reference to another Act, it would become:

- 'Foreign tax' is defined in subsection 6AB(2) of the ITAA 1936 to include income tax imposed by a law of a foreign country. In order to be considered a creditable income tax for the purposes of subsection 160AF(1) of the ITAA 1936, a foreign tax must be directed at the taxpayer's net income or gain. In this case, the tax was not imposed by a law of a foreign country in a way that meets the definition in subsection 6AB(2) of the ITAA 1936. As the taxpayer is a resident of Australia, the New Caledonia pension and rental income forms part of their assessable income under subsection 6-5(2) of the ITAA 1997.

If you cite the legislation as a list, that list is regarded as one paragraph for the purposes of citing legislation.

Example: using bullets

However, a member of a fund is not an active member of the fund at the relevant time under paragraph 295-95(3)(b) of the ITAA 1997 if:

- the member is both a
 - foreign resident (subparagraph 295-95(3)(b)(i))
 - contributor at that time (subparagraph 295-95(3)(b)(ii))
- the only contributions made to the fund on the member's behalf since the member became a foreign resident were made in respect of a time when the member was an Australian resident (subparagraph 295-95(3)(b)(iii)).

Within one sentence

The following examples illustrate how to cite multiple sections or subsections in one sentence:

- subsections 31-25(1) and 33-10(1) of the GST Act
- subsections 38-325(1) and (2) of the GST Act.

Regulations

Citing of regulations follows the same principles as legislation. The titles of regulations are also presented in italics.

Note that regulations made after 1 January 2012 are given in the singular, that is 'regulation', rather than the plural 'regulations'. For these, references are also to be given in the singular, for example 'this regulation', not 'these regulations'.

Pinpoint references in regulations are to:

- regulation
- subregulation
- paragraph

- subparagraph
- sub-subparagraph.

Note: For regulations made after 1 January 2012, pinpoint references (except for those in Schedules – see below) are to:

- section
- subsection
- paragraph
- subparagraph
- sub-subparagraph.

Bills (legislation not yet passed)

The title of the bill is not italicised, for example Taxation Laws Amendment (A Simpler Business Activity Statement) Bill 2002.

Explanatory Memoranda

When quoting an Explanatory Memorandum, it is always to the Bill, even when the Bill has subsequently become an Act of Parliament, for example Explanatory Memorandum to the Taxation Laws Amendment Bill (No.4) of 1996.


Repealed Acts

It's necessary to indicate that the Act is now repealed or superseded. For superseded sections of Acts, you should indicate that the Act you are citing was current as at a particular date. For example:

- *Local Government (Financial Assistance) Act 1986* (repealed)
- *Income Tax Assessment Act 1936* as at 1 April 1975
- Subparagraph 170(2)(b)(i) of the ITAA 1936 (repealed as of 1 July 2000)
- Section 6-5 of the ITAA 1997 (as amended).

International tax agreements

Previously, the full text of international agreements to which Australia was a party were replicated as separate schedules to the *International*

Tax Agreements Act 1953 (Agreements Act). Following the enactment of the *International Tax Agreements Amendment Act (No. 1) 2011* with effect from 27 June 2011 all but one of the various schedules to the Agreements Act have been repealed. The new approach in the Agreements Act is to refer to the Australian Treaties Series (set out on the Australasian Legal Information Institute site [Austlii](#) ) , which contains the full text of the agreement.

Given the length of some of the titles of the agreements, if you wish to refer to the agreement in an abbreviated manner elsewhere in the document, the abbreviation should be referred to the first time you cite the agreement, and the abbreviation should be used thereafter.

Alternatively, consideration could also be given to the use of footnotes to make the citation – subject to the certain provisos provided in the section on footnotes later in this document. If this option was chosen, the abbreviation could be used in the main text, with a footnote to the full citation as outlined below.

The first time you cite an international agreement, it must be cited in full, as follows (in order of citation):

- full title of the agreement, in italics
- medium neutral citation.

Example: International tax agreements

- *Agreement between Australia and the Kingdom of the Netherlands for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, and Protocol* [1976] ATS 24.
- *Agreement between the Government of Australia and the Government of the British Virgin Islands for the Allocation of Taxing Rights with respect to certain Income of Individuals* [2010] ATS 13.

Legislative determinations

Final legislative determinations don't have a reference number – they only have the title of the determination. The title should be cited in full and in italics.

Example: Legislative determinations

- *Diesel and Alternative Fuels Grants Scheme (Journeys) Determination 2000*
- *A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No 1) 2001*
- Draft legislative determinations published for comment do have a reference number, which needs to be cited. The title should be also cited in full and in italics.
- Draft Legislative Determination EXC 2016/D1 *Excise (Volume – recycled waste oil) Determination 2016 (No. 1)*

How ATO officers refer to cases

- [General approach](#)
- [Examples](#)
- [Abbreviating the case name](#)

General approach

While reported cases have multiple citations, most taxation related cases should be cited only per the medium neutral report.

1. Case name - The case name should be exactly per the wording of the medium neutral report (that is, as reported on the website for that Court), and in italics. Note that the case name, per the medium neutral report, will generally not have a full stop after the 'v'.
2. Medium neutral citation - Medium neutral citations have square brackets, and no punctuation. Other case citations (including to commercial reports of that case) are not required. The medium neutral citation should also be obtained from the appropriate website for the relevant Court. In some instances, transcription errors have occurred in other reports or other ATO documents, and *Austlii* for instance has incorrectly assigned medium neutral citations for some Federal Court decisions.

3. The name of the case is in italics; no comma should follow the name (the name of the case should be cited in the manner in which the first reporter cites the name). The citation is not in italics.

In situations where no medium neutral citation, can be found, other citations can be used.

Examples

- *Federal Commissioner of Taxation v Thomas* [2018] HCA 31
- *Fyna Projects Pty Ltd v Deputy Commissioner of Taxation* [2018] FCA 2041
- *Commissioner of Taxation v Cassaniti* [2018] FCAFC 212
- *NT86/6585 and Commissioner of Taxation* [1987] AATA 85
- *Eldersmede Pty Ltd and Ors and Commissioner of Taxation* [2004] AATA 710 .

Abbreviating the case name

Where a case is referred to a number of times in a text, it may be shortened in second and subsequent references. You should decide how you are going to refer to the case subsequently at the time you first cite the case and include the abbreviation at the end of the first reference to the case, in italics and within brackets.

Example: how to abbreviate a case name

The following 2 formats illustrate different ways of abbreviating the case name (note that these cases would normally have multiple referencing):

- *Federal Commissioner of Taxation v Thomas* [2018] HCA 31 (*Thomas*).
- *Commissioner of Taxation v Cassaniti* [2018] FCAFC 212 (*Cassaniti*).

For later references to the case, simply use the italicised abbreviation:

- in the *Thomas* case the judge stated

- *Cassaniti* confirms that.

Once you have selected a format, it's important to use it consistently throughout the rest of the document.

How ATO officers refer to documents we produce

- [Rulings and determinations](#)
- [Practical compliance guidelines](#)
- [ATO Interpretative Decisions](#)
- [Decision impact statements](#)
- [Law administration practice statements](#)

Rulings and determinations

For rulings and determinations, the naming convention for the year of issue changed in 1999. Rulings and determinations issued prior to 1999 have a 2-digit year indicator, whereas rulings and determinations issued in or after 1999 have a 4-digit year. CGT determinations (1-60) don't have a year displayed.

Example: rulings and determinations

Note especially the spaces before and after the terms such as 'IT', 'TR', 'TD':

- Taxation Ruling TR 94/19 (convention used for rulings issued before 1999)
- Goods and Services Tax Determination GSTD 2007/3 (convention used for rulings issued in and after 1999)
- Taxation Determination TD 10 (convention used for CGT determinations).

The first time you cite rulings and determinations within text it must be in full, using the long title.

When you quote the long title of a ruling, it's to be italicised, except for the ruling type and number – 'Taxation Ruling TR 2002/7 *Income tax: deductibility of payments to strike funds*'.

The title may be omitted for the second or subsequent citations where a ruling or determination is cited more than once in the same report or chapter of the document.

- (initial citation) Taxation Ruling IT 2234 *Income tax: business of primary production*
- (subsequent citation) IT 2234
- (initial citation) Law Companion Ruling LCR 2015/3 *Subdivision 815-E of the Income Tax Assessment Act 1997: Country-by-Country reporting*
- (subsequent citation) LCR 2015/3.

Draft public rulings

Draft public rulings are cited in the same manner as rulings and determinations. For example, 'Draft Taxation Ruling TR 2007/D10 *Income tax: capital gains: capital gains tax consequences of earnout arrangements*'.

Practical compliance guidelines

When citing a Practical compliance guideline, follow the same principles as for rulings and determinations. The first time you cite a Guideline in text it must be in full, using the long title. The title of the ruling is to be italicised, except for the ruling type and number. The title may be omitted for the second or subsequent citations. For example:

- (initial citation) Practical Compliance Guideline PCG 2016/1 *Practical Compliance Guidelines: purpose, nature and role in ATO's public advice and guidance*
- (subsequent citation) PCG 2016/1.

ATO Interpretative Decisions

ATO Interpretative Decisions (ATO IDs) are also cited in the same manner as rulings and determinations, for example 'ATO Interpretative

Decision ATO ID 2003/18 *Group company loss transfers – loss company inactive during deduction year*’.

ATO IDs may be cited either in the body of the report or in letters to taxpayers. You may base the wording of a private ruling on material contained in an ATO ID, provided it is appropriately personalised to the taxpayer’s circumstances. For example, ‘In coming to our decision, we have taken into consideration ATO Interpretative Decision ATO ID 2006/21 Goods and services tax – GST and receipt of surety bond payment.’

Decision impact statements

The citation for a DIS is prefaced with the words ‘Decision impact statement on’ followed by the case citation. For example:

- Decision impact statement on *Deputy Commissioner of Taxation v McGuire* [2013] NSWSC 184
- Decision impact statement on *Young and Anor and Commissioner of Taxation* [2013] AATA 347

Law administration practice statements

When citing Law administration practice statements (LAPS) you can use either the long, short, or abbreviated title.

Examples of how to use a title

Long title	Short title	Abbreviated title
Law Administration Practice Statement PS LA 2003/4 <i>Written binding advice – requests for further information</i>	PS LA 2003/4 <i>Written binding advice – requests for further information</i>	PS LA 2003/4
Law Administration Practice Statement (General Administration) PS LA 2004/1 (GA) <i>Lodgment opportunity for family</i>	PS LA 2004/1 (GA) <i>Lodgment opportunity for family trust and interposed entity elections</i>	PS LA 2004/1 (GA)

How ATO officers refer to electronic material

We often simply provide hyperlinks to relevant webpages within documents. However, if the website is a key reference which supports findings within the document it should also be cited (in a footnote or in the References section of that document). The citation in these instances should contain the:

4. name of the author (person or organisation responsible for the site)
5. site date (the date of the site's creation or most recent update)
6. URL (if the URL is not the homepage of that website, include the homepage, or include [website] in square brackets after the URL)
7. viewing date if you are referencing a particular piece of information on that site.

Example: referring to electronic material

- Department of Finance and Administration (November 2020) www.finance.gov.au , accessed 7 August 2020.
- Details of the program are available on the ATO's website www.ato.gov.au
- Australian Bureau of Statistics (May 2020) [Key economic indicators](http://www.abs.gov.au/Key-economic-indicators)  [website], accessed 13 August 2020.
- Australian Bureau of Statistics (May 2020) [Key economic indicators](http://abs.gov.au/Key-economic-indicators) , abs.gov.au, accessed 13 August 2020.

ATO officers' general style requirements

The following is the advice ATO officers apply when writing our advice. In this section, 'you' refers to the ATO officer.

- [References to the year of income](#)
- [Initialisms and acronyms](#)
- [States and territories](#)
- [Formatting text](#)
- [Currency](#)
- [Days and dates](#)
- [Referring to the ATO](#)

References to the year of income

You may refer to a year of income as:

- the '201011 financial year'
- the '2010–11 year of income'
- '1 July 2010 to 30 June 2011'
- 'financial year ended 30 June 2011'.

Do not use 'the 2010/11 financial year'.

Initialisms and acronyms

A series of words can be shortened to the initial letter (and sometimes others) of some or all the words. In general, spell such initialisms out at first use and give the initialism in brackets immediately after, for example:

- Australian Broadcasting Commission (ABC)
- Australian Taxation Office (ATO)
- Goods and services tax (GST).

Don't use an acronym if the term appears in your document only once. Some shortened names and acronyms have become fully accepted independent words, for example 'Qantas', 'radar' and 'scuba'. In these instances, you wouldn't use the underlying name or phrase in preference to the acronym because the acronym is so well known it has an independent identity. Follow the dictionary spelling in these cases.

States and territories

Use the following initialisms for Australian states and territories in addresses and where space is limited, such as in tables:

- Australian Capital Territory (ACT)
- New South Wales (NSW)
- Northern Territory (NT)
- Queensland (QLD, not Qld)
- South Australia (SA)
- Tasmania (TAS, not Tas)
- Victoria (VIC, not Vic)
- Western Australia (WA).

Formatting text

This section contains information about bolding, italicising and underlining text.

Bold

Use bold:

- to bring attention to words – however, use bold sparingly as overuse reduces its effectiveness and do not use italics
- when writing phone numbers and addresses
- for a term you are defining and following by the definition.

Example: Bold

Intellectual Property, or 'IP', refers to the various rights which the law accords for the protection of creative effort – and especially for the protection of economic value of creative efforts. IP is intangible as opposed to tangible or 'physical' in character.

Italics

Use italics when referring to the full title of any publication, including forms, web pages, rulings, determinations, law administration practice statements (LAPSs), and legislation (that is, the title including year).

Example: italics

- Based on the information in the *Guide to depreciating assets*
- the *Canberra Times*, the *Australian Financial Review*, *Australian Health Review*
- See *Law Administration Practice Statement PS LA 2004/11 The Commissioner's discretions to treat a particular document as a tax invoice or adjustment note.*

Do not use italics:

- for the title of any publication when it is a hyperlink (however, note the special rules for hyperlinking the titles of tax determinations, ATO IDs, LAPS and CMPS) – for example, Refer to **Rental properties 2016**.
- for shortened titles or general references to forms, rulings etc
- to bring attention to words – such words should be in bold instead.

Underlining

Do not underline text. Use bold for emphasis and italics for the titles of publications.

Currency

In general, use figures and symbols to express currency. Use the dollar (or other appropriate currency) symbol (\$) and a full stop for a decimal point.

For amounts up to one million, use the form: symbol | figure for example, \$999,999.95.

For one million or more:

- in text use the form: symbol | figure | non-breaking space | value (spelt out in full) for example, \$2 billion, \$10.5 million

- in tables, graphs, figures, flowcharts, footnotes, captions and diagrams the word for the value is abbreviated (that is, million becomes 'm' and billion becomes 'b' – without a full stop) and there is no space after the figure for example, \$2m, \$10.5m).

Foreign currency

When you refer to foreign dollars, place the relevant letter or letters for the country immediately before dollar symbol (\$) for example, NZ\$500, US\$900 – or use the appropriate symbol for that currency (for example, Euro – €; Pound – £; Yen – ¥).

In text where we need to distinguish the Australian dollar from the dollar in other countries, use the Reserve Bank of Australia's style, A\$.

Days and dates

When writing a specific date, use a combination of figures and numbers without commas in the form: day | non-breaking space | month | space | year. For example:

- 30 June 2009
- Tuesday 10 February 2009.

Do not use the ordinal form for dates – that is, write '31 October' not '31st October'.

Referring to the ATO

When referring to the ATO, use:

- 'ATO' (not 'Tax Office') when using the third person stance – this is because we administers more than tax alone
- 'us' or 'we' when using the first-person stance.

When using 'ATO', follow the normal rule for using shortened names; that is, at the first mention you should use the full name – Australian Taxation Office – and thereafter use the short form.

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Ruling examples

Examples of draft Rulings.

Last updated 26 September 2024

On this page

Example 1 – draft ruling on deductibility of self-education expenses

Example 2 – draft ruling on whether a beverage will meet the definition of ‘beer’ for excise purposes

Example 1 – draft ruling on deductibility of self-education expenses

Subject

Self-education expenses

Question

Will the self-education expenses be an allowable deduction under section 8-1 of the *Income Tax Assessment Act 1997*?

Answer

Yes.

Relevant facts and circumstances

Suggested objective facts to include:

- details of the course being undertaken
- whether you are employed, or receiving government assistance to study
- if employed, full description of employment duties and status
- purpose of the course – and your future intentions
- a description of the expense incurred or to be incurred.

Assumptions

Nil.

Relevant legislative provisions

Income Tax Assessment Act 1997 section 8-1.

Reasons for decision

Summary

The expenses you incur in relation to your study are deductible as they maintain or increase the specific knowledge required in your current position and to carry out your duties more effectively.

Detailed reasoning

Section 8-1 of the *Income Tax Assessment Act 1997* allows a deduction for all losses and outgoings to the extent to which they are incurred in gaining or producing assessable income except where the outgoings are of a capital, private or domestic nature, or relate to the earning of exempt income.

Taxation Ruling TR 98/9 *Income tax: deductibility of self-education expenses incurred by an employee or a person in business*, discusses the circumstances under which self-education expenses are allowable as a deduction. A deduction is allowable for self-education expenses if a taxpayer's current income-earning activities are based on the exercise of a skill or some specific knowledge and the subject of the self-education enables the taxpayer to maintain or improve that skill or knowledge (*Commissioner of Taxation (Cth) v Finn* [1961] HCA 61).

Similarly, if the study of a subject of self-education objectively leads to, or is likely to lead to an increase in a taxpayer's income from his or her current income earning activities in the future, a deduction is allowable.

However, no deduction is allowable for self-education expenses if the study is designed to enable a taxpayer to open up a new income-earning activity, whether in business or in the taxpayers current employment. Such expenses of self-education are incurred at a point too soon to be regarded as incurred in gaining or producing assessable income (*Federal Commissioner of Taxation v Maddalena* 71 ATC 4161 and paragraphs 15, and 48-62 of TR 98/9).

In your situation, the course of study can be objectively seen as being undertaken in order to maintain or increase the specific knowledge

required in your current position and to carry out your duties more effectively. The study has not been undertaken at a point too soon to be regarded as being incurred in respect of your current income earning activities and is not seen as opening a new discrete income earning activity. Accordingly you are entitled to a deduction for the expenses you incur in respect of the study.

Example 2 – draft ruling on whether a beverage will meet the definition of ‘beer’ for excise purposes

Subject

Flavoured beverage

Question

Will the product meet the definition of ‘beer’ as defined in The Schedule to the *Excise Tariff Act 1921*?

Answer

Yes.

Relevant facts and circumstances

The product to be manufactured is a flavoured beverage.

The production methodology is as follows:

- An aqueous extract is produced utilising the traditional brew house processes of mashing, lautering and cooling.
- The aqueous extract is made up of wheat malt (85%) and sugar (15%).
- Hops are added at the boiling stage.
- The wort is cooled to 20°C and yeast strain is added.
- The brew is transferred to a fermenter for fermentation to occur.
- After maturation the brew is filtered and sugar and flavours are added.
- The beverage is carbonated.

- Water is added to the mash.

Hops is added during the production process. The addition of the hops gives the product an International Bitterness Units (IBU's) measurement of 5.0.

After the fermentation phase, the quantity of sugar in the beverage is measured to ensure that there is no residual sugar after fermentation.

No artificial sweeteners are added to the beverage.

The following are added to the beverage during the production process:

- 2g of sugar (sucrose) per litre
- 0.5ml per litre of sodium benzoate (25%) in water (if unpasteurised)
– this is not added if the beverage is to be pasteurised
- 2.4ml per litre of citric acid (50%) w/w in water
- 4ml per litre of fruit flavour
- does not contain any sugar
- does not contain any alcohol.

No spirit distilled from beer is added to the beverage at any time in the production process.

The alcohol content of the final beverage is 4.5%.

Relevant legislative provisions

Excise Tariff Act 1921 The Schedule

Reasons for decision

Summary:

The product is considered to be a 'beer' for the purposes of the *Excise Tariff Act 1921*.

Detailed reasoning:

From 28 August 2009 the Schedule to the *Excise Tariff Act 1921* provides that:

- beer means a brewed beverage that

- (a) is the product of the yeast fermentation of an aqueous extract, being predominantly an aqueous extract of cereals
 - (i) whether the cereals are malted or unmalted; and
 - (ii) whether or not the aqueous extract contains other sources of carbohydrates; and
- (b) contains:
 - (i) hops, or extracts of hops, such that the beverage has international bitterness units of not less than 4.0; or
 - (ii) other bitters such that the beverage has a bitterness comparable to that of a beverage mentioned in subparagraph (i); and
- (c) contains not more than 4.0% by weight of sugars; and
- (d) has not had added to it, at any time, artificial sweetener; and
- (e) may have had added to it, at any time, other substances, including flavours, but only if, in the case of substances that contain alcohol (other than spirit distilled from beer), the alcohol did not add more than 0.5% to the total volume of the final beverage; and
- (f) may have had added to it, at any time, spirit distilled from beer, but only if that spirit did not add more than 0.5% to the total volume of the final beverage; and
- (g) contains more than 1.15% by volume of alcohol.

The flavoured beverage produced is the product of the yeast fermentation of an aqueous extract of predominantly wheat malt. The term 'predominantly' is not a defined term within the excise legislation therefore it takes its ordinary meaning of 'mainly; for the most part.' The flavoured beverage therefore satisfies the requirement of paragraph (a) of the definition of beer in the Schedule to the *Excise Tariff Act 1921*.

During the production process hops is added to your flavoured beverage which has 5 IBU's. Therefore the beverage satisfies paragraph (b) of the definition of beer in the Schedule to the *Excise Tariff Act 1921* as it contains hops and IBUs of not less than 4.0.

The final beverage does not contain more than 4.0% by weight of sugars and does not have any artificial sweeteners added to it during the production process. After the wheat malt and sugar are fermented the beverage does not contain any sugar. Additional sugar is added later in the production process, measured at 2 grams of sugar per litre. If there is any residual sugar in the beverage after fermentation the quantity of additional sugar added is adjusted to ensure that the final beverage does not contain more than 4.0% of sugars. Therefore, the flavoured beverage satisfies paragraphs (c) and (d) of the definition of beer in the Schedule to the *Excise Tariff Act 1921*.

During the production process the following is added to the beverage:

- 2g of sugar (sucrose) per litre
- 0.5ml per litre of sodium benzoate (25%) in water (if unpasteurised). This is not added if the beer is to be pasteurised
- 2.4ml per litre of citric acid (50%) w/w in water
- 4ml per litre of fruit flavour.

These additions do not add more than 0.5% alcohol to the total volume of the final beverage, therefore satisfying paragraph (e) of the definition of beer in the Schedule to the *Excise Tariff Act 1921*. The beverage also satisfies paragraph (f) of the definition of beer in the Schedule to the *Excise Tariff Act 1921* as no spirit distilled from beer is not added to the beverage during the production process.

The flavoured beverage satisfies paragraph (g) of the definition of beer in the Schedule to the *Excise Tariff Act 1921* as it contains 4.5% alcohol by volume.

Having satisfied all of the paragraphs within the definition of beer, the product is considered to be a 'beer' for the purposes of the *Excise Tariff Act 1921*.

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