

CR 2001/1A2 - Addendum - Income tax: Class Rulings system

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Addendum

Class Ruling

Income tax: Class Rulings system

This Addendum amends Class Ruling CR 2001/1 to incorporate the recommended changes for public rulings stated in the *Report on Aspects of Income Tax Self Assessment* (ROSA Report). These changes were enacted under the *Tax Laws Amendment (Improvements to Self Assessment) Act (No. 2) 2005*. In respect of public rulings, that Act inserted new Divisions 357 (common rules) and 358 (public rulings) into Schedule 1 to the *Taxation Administration Act 1953*, the provisions of which are referred to in this Ruling.

CR 2001/1 is amended as follows:

1. Preamble

Omit Preamble and substitute:

This publication is a public ruling for the purposes of the *Taxation Administration Act 1953*.

A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.

If you rely on this ruling, we must apply the law to you in the way set out in the ruling (or in a way that is more favourable for you if we are satisfied that the ruling is incorrect and disadvantages you, and we are not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any under-paid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

2. The Ruling

(a) Omit the words 'arrangement' and 'arrangements' (wherever occurring); substitute 'scheme' and 'schemes' respectively.

(b) Omit the words 'person' and 'persons' (wherever occurring); substitute 'entity' and 'entities' respectively.

(c) Except for paragraph 1, omit the word 'tax law' (wherever occurring); substitute 'relevant provision'.

3. Paragraph 7

Omit 'Part IVAAA of'; substitute 'Division 358 of Schedule 1 to'.

4. Paragraph 10

Omit the paragraph and substitute:

Class of entity

10. Division 358 of Schedule 1 to the TAA contains the public ruling provisions and sets out what is necessary for a published opinion of the Commissioner to be a public ruling. A class ruling sets out the Commissioner's opinion as to the way in which a 'relevant provision' applies to a class of entities in relation to a scheme (subsection 358-5(1) of Schedule 1 to the TAA).

5. Paragraph 12

Omit the paragraph and substitute:

Relevant provision

12. Provisions that are relevant to rulings are defined in section 357-55 of Schedule 1 to the TAA. A 'relevant provision' is a provision of an Act or regulation administered by the Commissioner that is about any of the following:

- income tax;
- Medicare levy;
- fringe benefits tax;
- franking tax (that is, franking deficit tax, over-franking tax and venture capital deficit tax);
- withholding taxes (including non-resident withholding taxes and mining withholding tax);
- the administration or collection of the above taxes;
- product grants or benefits mentioned in section 8 of the *Product Grants and Benefits Administration Act 2000* (including energy grants, cleaner fuel grants and product stewardship (oil) benefits); and
- the administration or payment of the above grants and benefits.

6. Paragraph 13

Omit '(section 14ZAAD of the TAA)'.

7. Paragraph 19

Omit the paragraph and substitute:

Requesting a Class Ruling

19. An entity may specifically request a Class Ruling. Furthermore, whenever an entity requests advice about the application of a relevant provision to a specific class of entity/entities in relation to a particular scheme, it will be treated as a request for a Class Ruling. ATO staff are to also give consideration to issuing a Class Ruling in those situations where a member of a class of entity/entities affected by a particular scheme requests a private ruling on the scheme.

8. Paragraph 27

Omit the paragraph and substitute:

27. Class Rulings will generally be withdrawn where no longer needed. For example, a Class Ruling will be withdrawn where the Commissioner is satisfied that the scheme in relation to which the Class Ruling issued, is no longer to be implemented or the scheme has been implemented but in a way materially different from that described in the Ruling. A Class Ruling, although withdrawn, will continue to bind the Commissioner in relation to those to whom the Ruling applies, who entered into the scheme as described in the Ruling during the currency of the Ruling.

27A. If a Class Ruling is inconsistent with a later public or private ruling, the relevant class of entity/entities may rely on either ruling that applies to them (subsection 357-75(1) item 1 of Schedule 1 to the TAA).

27B. If a private ruling is inconsistent with a later Class Ruling, the earlier private ruling is taken not to have been made if, when the Class Ruling is made, the following two conditions are met:

- the income year or other period to which the rulings relate has not begun; and
- the scheme to which the rulings relate has not begun to be carried out.

If the above two conditions do not apply, the relevant class of entity/entities may rely on either ruling that applies to them (subsection 357-75(1) item 3 of Schedule 1 to the TAA).

9. Legislative References

Omit the references, substitute:

- TAA 1953
- TAA 1953 Sch 1
- TAA 1953 Sch 1 Div 357
- TAA 1953 Sch 1 Div 358

This Addendum applies to all Class Rulings issued on and from 1 January 2006.

Commissioner of Taxation

5 April 2006

ATO references

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