TD 93/D73 - Income tax: self assessment: can a partnership make a valid application for a Private Ruling in terms of section 14ZAF of the Taxation Administration Act 1953 (TAA)?

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This document has been finalised by TD 95/45.

Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.

Draft Taxation Determination

Income tax: self assessment: can a partnership make a valid application for a Private Ruling in terms of section 14ZAF of the *Taxation Administration Act 1953 (TAA)*?

1. No. Section 14ZAF of the TAA provides that a person may apply for a ruling on the way in which a tax law or tax laws would apply to the person. 'Tax law' is defined in section 14ZAAA of the TAA to mean an income tax law or a fringe benefits tax law. 'Income tax law' is defined in the same section as a law under which the extent of liability for income tax, withholding tax, mining withholding tax, Medicare levy or franking deficit tax is worked out.

2. In terms of section 91 of the *Income Tax Assessment Act 1936* (ITAA), a partnership is not liable to pay tax on the income of the partnership. As a partnership has no liability for tax under the ITAA, it cannot validly apply for the Commissioner to give a ruling on the way in which the extent of its liability for tax imposed under that Act is worked out.

3. A Private Ruling application relating to partnership issues may be lodged by, or on behalf of, any or all of the partners. An application of this type should specify the partner or partners for whom a ruling is required. If the applicant is not the partner for whom the ruling is required, or rulings are required for more than one partner, the applicant will need to have the written consent of the partner or partners who want a Private Ruling (section 14ZAG).

Commissioner of Taxation
18/3/93

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