


# ***MT 2006/1A3 - Addendum - The New Tax System: the meaning of entity carrying on an enterprise for the purposes of entitlement to an Australian Business Number***

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## Addendum

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### Miscellaneous Taxation Ruling

#### The New Tax System: the meaning of entity carrying on an enterprise for the purposes of entitlement to an Australian Business Number

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Miscellaneous Taxation Ruling MT 2006/1 to account for legislative changes arising from the commencement of the *Australian Charities and Not-for-profits Commission (Consequential and Transitional) Act 2012*, the *Financial Sector Legislation Amendment (Simplifying Regulation and Review) Act 2007* and the *Treasury Legislation Amendment (Repeal Day) Act 2014*.

#### **MT 2006/1 is amended as follows:**

**1. Paragraph 3**

Omit the first three dot points; substitute:

- the trustee of a fund that is covered by, or by an authority or institution that is covered by, Subdivision 30-B of the *Income Tax Assessment Act 1997* (ITAA 1997) and to which deductible gifts can be made;
- a charity; and

**2. Paragraphs 4 and 23**

Omit all occurrences of 'with Australia'; substitute 'with the indirect tax zone'.

**3. Paragraph 11**

Omit 'religious and charitable institutions'; substitute 'charities'.

# MT 2006/1

## 4. Paragraph 25

Omit the paragraph; substitute:

25. 'Australia' is defined in section 41 to have the same meaning as in the ITAA 1997 when it is used in its geographical sense.<sup>9A</sup> Australia, for the purposes of the income tax law includes:

- the States and internal Territories;
- the following external Territories:
  - Norfolk Island;
  - the Coral Sea Islands Territory;
  - the Territory of Ashmore and Cartier Islands;
  - the Territory of Christmas Island;
  - the Territory of Cocos (Keeling) Islands;
  - the Territory of Heard Island and the McDonald Islands;
- Australia's territorial waters (including the territorial waters surrounding the external Territories);
- much of the waters contained in Australia's exclusive economic zone;<sup>9B</sup> and
- the airspace above and the sea-bed and subsoil beneath Australia's waters.

25A. 'Indirect tax zone' is defined in section 41 to have the meaning given by the GST Act.<sup>9C</sup> Unlike income tax, the GST law does not operate in Australia's external Territories and in certain offshore areas. The term 'indirect tax zone' is used to make clear the difference in the application of the indirect taxes.

25B. 'Connected with the indirect tax zone' in relation to a supply is defined in section 41 to have the meaning given by section 195-1 of the GST Act.<sup>9D</sup>

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<sup>9A</sup> See section 960-505 of ITAA 1997.

<sup>9B</sup> Australia's exclusive economic zone is made up of 8.2 million square kilometres off Australia and its remote offshore territories. It extends to a distance of not more than 200 nautical miles from the territorial sea baseline (Australian Government, Geoscience Australia).

<sup>9C</sup> See section 195-1 of the GST Act.

<sup>9D</sup> Section 195-1 of the GST Act states that **connected to the indirect tax zone**, in relation to a supply, has the meaning given by sections 9-25 and 85-5. Further information about this term can be found in GSTR 2000/31 *Goods and services tax: supplies connected with Australia*.

**5. Subparagraph 32(c)**

Omit the subparagraph; substitute:

- (c) city and shire councils established by a Local Government Act of a State or Territory, for example the *Local Government Act 2009* (Qld).

**6. Paragraph 69**

Omit 'section 195-1 of the GST Act'; substitute 'section 41'.

**7. Paragraph 90**

Omit the first three dot points; substitute:

- endorsed charities;
- gift-deductible entities that are non-profit bodies;

**8. Paragraph 91**

After the paragraph; insert:

*RSE licensee or an applicant for an RSE licence that is a group of individual trustees*

91A. The ABN Act applies to a registrable superannuation entity (RSE) licensee or an applicant for an RSE licence that is a group of individual trustees, as if the group were an entity carrying on an enterprise in Australia.

91B. Part 2A of the *Superannuation Industry (Supervision) Act 1993* provides for the granting of a RSE licence to constitutional corporations, other bodies corporate and groups of individual trustees.

91C. A constitutional corporation (a trading or financial corporation formed within the limits of the Commonwealth) or other body corporate or a group of individual trustees may apply for an RSE licence. A group of individual trustees is licensed as a group, that is, each individual trustee is not required to have a licence. An RSE licence given to a group of individual trustees resides with the group and is not affected by changes in the composition of the group.

**9. Paragraph 92**

Omit 'funds and non-profit sub-entities'; substitute 'funds, non-profit sub-entities and certain RSE licensees'.

# MT 2006/1

## 10. Paragraph 95

Omit from the heading 'funds and non-profit sub-entities'; substitute 'funds, non-profit sub-entities and certain RSE licensees'.

## 11. Paragraph 96

Omit 'funds and non-profit sub-entities'; substitute 'funds, non-profit sub-entities and groups of individual trustees that are RSE licensees or applicants for an RSE licence'.

## 12. Paragraph 97

Omit last two dot points; substitute:

- 'superannuation fund' – paragraphs 69 to 70;
- 'non-profit sub-entity' – paragraphs 89 to 91; and
- RSE licensees and applicants for an RSE licence where the licensee or applicant is a group of individual trustees' – paragraphs 91 A to 91C.

## 13. Paragraph 150

- (a) Omit 'Section 9-20'; substitute 'Subsection 9-20(1)'.  
(b) Omit subparagraphs (e) and (f); substitute:  
(e) by a charity; or

## 14. Paragraph 407

Omit '*Local Government Act 1993 (Qld)*'; substitute '*Local Government Act 2009 (Qld)*'.

## 15. Paragraph 409

Omit:

*Corporations Act companies, Government entities, superannuation funds and non-profit sub-entities* 95

Insert:

*RSE licensee or an applicant for an RSE licence that is a group of individual trustees* 91A

*Corporations Act companies, Government entities, superannuation funds, non-profit sub-entities and certain RSE licensees* 95

**16. Subject references**

Omit 'supplies connected with Australia'; substitute 'supplies connected with the indirect tax zone'.

**17. Legislative references**

Omit:

- Customs Act 1901 5C
- Local Government Act 1993 (Qld)

Insert:

- ANTS(ABN)A 1999
- ANTS(GST)A 1999 9-25
- ANTS(GST)A 1999 85-5
- ITAA 1997
- ITAA 1997 960-505
- ITAA 1997 995-1(1)
- TAA 1953
- Local Government Act 2009 (Qld)
- Superannuation Industry (Supervision) Act 1993 Pt 2A

This Addendum applies on and from 1 July 2015.

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**Commissioner of Taxation**

1 July 2015

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ATO references

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