


MT 2008/1A4 - Addendum - Penalty relating to statements: meaning of reasonable care, recklessness and intentional disregard

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Addendum

Miscellaneous Taxation Ruling

Penalty relating to statements: meaning of reasonable care, recklessness and intentional disregard

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Miscellaneous Taxation Ruling MT 2008/1 to update information regarding the global and minimum tax and address minor accessibility issues.

MT 2008/1 is amended as follows:

1. Preamble

Omit '(excluding appendixes)'.

2. Paragraph 1

- (a) After subsection 286-75(1A), insert new footnote A1:

^{A1} Subsection 286-75(1A) was inserted by the *Tax Agent Services (Transitional Provisions and Consequential Amendments) Act 2009* and applies to the failure to lodge a return, notice, statement or document required to be given to the Commissioner on or after 1 March 2010.

- (b) Omit footnote 1A.

3. Paragraph 6

- (a) At the end of the paragraph, insert new footnote B1:

^{B1} This ruling was a public ruling for the purposes of former section 105-60. This ruling is now taken to be a ruling made under Division 358 as it was in force immediately before 1 July 2010 and was labelled as a public ruling – see section 46 of Schedule 2 to the *Tax Laws Administration (2010 GST Administration Measures No. 2) Act 2010*.

- (b) Omit footnote 1B.

4. Paragraph 8

- (a) Omit the dot points; substitute:

- income tax matters for the 2000-01 and later income years;
- for fringe benefits tax (FBT) matters for the year commencing 1 April 2001 and later years;
- matters relating to other taxes for the year commencing 1 July 2000 and later years; and

- global and domestic minimum tax (minimum tax)^{C1} matters for the fiscal years commencing on or after 1 January 2024.

(b) In the 4th dot point, after '(minimum tax)', insert new footnote C1:

^{C1} The global and domestic minimum tax introduced by the *Taxation (Multinational—Global and Domestic Minimum Tax) Act 2024* and related Acts.

5. Paragraph 10

After 'petroleum resource rent tax', insert ', minimum tax'.

6. Paragraph 11

- (a) In the first dot point, omit 'under a taxation law and the statement'; substitute 'under a taxation law and the statement'.
- (b) In the second dot point after 'income tax law', insert ', minimum tax law'.

7. Paragraph 19

- (a) In the first dot point, after 'base penalty amount', insert '(BPA)'.
- (b) In the second dot point, omit 'base penalty amount'; substitute 'BPA'.

8. Paragraphs 20, 21, 21A and 109

Omit all instances of 'base penalty amount'; substitute 'BPA'.

9. Paragraph 21B

Omit the wording of the paragraph; substitute:

Section 284-224 can reduce the BPA if the BPA arose from the application of a taxation law in accordance with:

- advice given to you or your agent by or on behalf of the Commissioner; or
- general administrative practice under that law; or
- a statement in a publication approved in writing by the Commissioner.

10. Paragraph 23

After Part IVC, insert 'of the TAA'.

11. Paragraph 24

- (a) After 'intentional disregard were used in', insert 'former'.
- (b) In footnote 4, after 'IT 2517', insert '(now withdrawn)'.

12. Paragraph 28

- (a) In the quote, omit 'of the ITAA and regulations'; substitute 'of [the ITAA and regulations]'
- (b) In footnote 5, after '*Taxation Laws Amendment (Self Assessment) Act 1992*', insert '(repealed)'.

13. Paragraph 34

In the quote, omit '...it is'; substitute '... It is'.

14. Paragraph 35

In the quote, omit "reasonable"; substitute "reasonable".

15. Paragraph 43

In the quote, omit 'Section 226G'; substitute '... Section 226G'.

16. Paragraph 60

Omit 'Australian Customs Service'; substitute 'Australian Border Force'.

17. Paragraph 67

- (a) After 'calculating the profit arising from the sale of the property,' omit 'subsection 82(2) of the ITAA 1936 applied to claw back deductions previously claimed under section 124ZH of Division 10D of the ITAA 1936. In finding that subsection 82(2); substitute:

former subsection 82(2) of the ITAA 1936 applied to claw back deductions previously claimed under former section 124ZH of Division 10D of the ITAA 1936. In finding that former subsection 82(2)

- (b) In the quote, omit '...it is'; substitute '... It is'.

18. Paragraph 95

Omit 'one eleventh'; substitute 'one-eleventh'.

19. Paragraph 102

Omit the wording of the quote; substitute:

... Recklessness in this context means to include in a tax statement material upon which the Act or regulations are to operate, knowing that there is a real, as opposed to a fanciful, risk that the material may be incorrect, or be grossly indifferent as to whether or not the material is true and correct, and a reasonable person in the position of the statement-maker would see there was a real risk that the Act and regulations may not operate correctly to lead to the assessment of the proper tax payable because of the content of the tax statement. So understood, the proscribed conduct is more than mere negligence and must amount to gross carelessness.

20. Paragraph 103

- (a) In the quote, omit 'Recklessness'; substitute '... Recklessness'.
- (b) In the quote, omit 'as 'reckless''; substitute 'as "reckless"'.

21. Paragraph 104

In the quote, omit 'If the risk'; substitute '... If the risk'.

This Addendum applies from 1 January 2024.

Commissioner of Taxation
20 August 2025

ATO references

NO:	1-15320C2H
ISSN:	2205-6130
BSL:	ISP and FO

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