

MT 2008/2A7 - Addendum - Shortfall penalties: administrative penalty for taking a position that is not reasonably arguable

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Addendum

Miscellaneous Taxation Ruling

Shortfall penalties: administrative penalty for taking a position that is not reasonably arguable

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Miscellaneous Taxation Ruling MT 2008/2 to update information regarding the global and minimum tax and address minor accessibility issues.

MT 2008/2 is amended as follows:

1. Preamble

Omit '(excluding appendixes)'; substitute '(excluding appendix)'.

2. Paragraph 4

(a) After 'an income tax', insert ', global and domestic minimum tax (minimum tax)^{A1}'.

(b) After '(minimum tax)', insert new footnote A1:

^{A1} The global and domestic minimum tax introduced by the *Taxation (Multinational—Global and Domestic Minimum Tax) Act 2024* and related Acts.

3. Paragraph 12

After 'the introduction of', insert 'former'.

4. Paragraph 14

Omit dot points 4 and 5; substitute:

- withholding tax for transfer pricing scheme penalties for the years commencing on or after 29 June 2013;
- minimum tax matters relating to fiscal years commencing on or after 1 January 2024; and
- matters relating to other taxes for the years commencing 1 July 2000.

5. Paragraph 16

After 'goods and services tax,' insert 'minimum tax,'.

6. Paragraph 19

Omit the second dot point; substitute:

- a shortfall amount resulting from the statement exceeds the reasonably arguable threshold set out in subsections 284-90(3) and (3A) in relation to item 4, 5, 6 or 6A of the table in subsection 284-90(1), as applicable.

7. Paragraph 22

Omit 'Items 4, 5, and 6 of'; substitute 'items 4, 5, 6, and 6A of'.

8. Paragraph 27

In footnote 5, after '*Taxation Laws Amendment (Self Assessment) Act 1992*', insert '(repealed)'.

9. Paragraph 32

Omit 'exceeds the reasonably'; substitute 'exceeds the reasonably'.

10. Paragraph 33

(a) Omit dot point 3; substitute:

- where a partner in a partnership makes such a statement under section 284-35, the effect of the treatment of the law on the net income or loss of the partnership exceeds the greater of \$20,000 or 2% of the partnership net income (in relation to item 6 in the table in subsection 284-90(1)); or
- in relation to item 6A in the table in subsection 284-90(1), an entity's threshold for a fiscal year is the greater of:
 - \$10,000; and
 - 1% of whichever of the following applies
 - the amount of Australian Income Inclusion Rule and Undertaxed Profits Rule (IIR/UTPR) tax payable^{7A} by the entity for the fiscal year, worked out on the basis of the entity's Australian IIR/UTPR tax return for the fiscal year;
 - the amount of Australian domestic minimum tax (DMT) payable by the entity for the fiscal year, worked out on the basis of the entity's Australian DMT tax return for the fiscal year.

(b) After '(IIR/UTPR) tax payable', insert new footnote 7A:

^{7A} For definitions of 'Australian IIR/UTPR tax', 'Australian IIR/UTPR tax return', 'Australian DMT tax' and 'Australian DMT tax return', see section 995-1 of the *Income Tax Assessment Act 1997*.

11. Paragraph 41

(a) Omit dot points 3 and 4; substitute:

- a decision of a court (whether or not an Australian court), the Administrative Appeals Tribunal, the Administrative Review Tribunal or a Taxation Board of Review;
- a public ruling.¹²

12. Paragraph 42

Omit 'AAT'; substitute 'Administrative Appeals Tribunal'.

13. Paragraph 51B

Omit 'treatment is eligible to be taken as reasonably arguable are'; substitute 'treatment is eligible to be taken as reasonably arguable are'.

14. Paragraphs 58 and 59

Omit all instances of '*AJ Pty Ltd*'; substitute '*AJ Co*'.

15. Paragraphs 60 and 61

Omit all instances of '*Hill Pty Ltd*'; substitute '*Hill Co*'.

16. Paragraph 64

(a) After 'sets out a number', insert 'of'.

(b) In footnote 19, omit 'a binding oral ruling'; substitute 'an oral ruling'.

17. Paragraph 76B

(a) Omit 'section 995-1'; substitute 'subsection 995-1(1)'

(b) In subparagraph (b), omit 'and'

This Addendum applies from 1 January 2024.

Commissioner of Taxation

20 August 2025

ATO references

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