

MT 93/1 - Petroleum resource rent tax: public rulings and advance opinions



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This document has changed over time. This is a consolidated version of the ruling which was published on *21 January 1993*

Miscellaneous Taxation Ruling

Petroleum resource rent tax: public rulings and advance opinions

other Rulings on this
topic

IT 2500 TR 92/1
TR 92/20

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Miscellaneous Taxation Rulings do not have the force of law. Each decision made by the Australian Taxation Office is made on the merits of each individual case having regard to any relevant Ruling.

What this Ruling is about

1. This Ruling outlines the system of public rulings we are introducing for the *Petroleum Resource Rent Tax Assessment Act 1987* (the PRRT Act) and the circumstances under which advance opinions will be given concerning the application of the PRRT Act.

2. In relation to public rulings, this Ruling considers:

- (i) what constitutes a public ruling;
- (ii) why we publish Rulings, and on what issues;
- (iii) the status of public rulings;
- (iv) the withdrawal of public rulings;
- (v) the date of effect of public rulings;
- (vi) the use of Draft Rulings; and
- (vii) the numbering of Rulings.

What constitutes a public ruling

3. A public ruling is one that provides guidelines for the public and staff of the Australian Taxation Office (ATO) in relation to the interpretation of petroleum resource rent tax (PRRT) law and to the administration of that law by the Commissioner.

4. A public ruling is to be distinguished from advance opinions given in response to specific requests from persons seeking advice

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as to the PRRT consequences of proposed transactions.

5. The *Taxation Laws Amendment (Self Assessment) Act 1992* does not apply to the PRRT Act. Therefore, public rulings and advance opinions (also called private rulings) relating to the interpretation and administration of the PRRT Act are not governed by that Act. The use of expressions like private rulings and public rulings in this Ruling are not to be confused with similar expressions used in that Act.

Why we publish Rulings, and on what issues

6. Public rulings will be published to provide guidance for both the public and our own staff on matters of policy, practice and procedure and interpretation of the PRRT law. Further, the issue of Rulings will enable the Commissioner to fulfil his obligation under the *Freedom of Information Act 1982* of making available for public scrutiny copies of documents which are used by his officers in making decisions.

7. We want to effectively communicate our views on grey areas of PRRT affecting the offshore oil industry. Public rulings will supplement the other ways, like media releases, articles and speeches by senior officers from time to time, by which we make known our views about the PRRT law.

The status of public rulings

8. Public rulings do not have the force of law and are not binding on the Commissioner. However, the basic administrative policy of the ATO is to stand by what is said in a Ruling and to depart from a Ruling only where there are good and substantial reasons for doing so.

9. Generally speaking, any departure from a Ruling would be confined to situations where:

- (i) there have been legislative changes;
 - (ii) a Tribunal or Court overturns or modifies an interpretation of the law;
- or

- (iii) the approach adopted in a Ruling is no longer considered appropriate. This would include cases where the Ruling is considered to be wrong in law, an administrative practice outlined in a Ruling is being exploited as a means of tax avoidance or the commercial practice to which the Ruling relates no longer operates.

10. While public rulings are provided to assist in the interpretation of the law it is important to recognise that the relevance of a Ruling to the PRRT liability of a person will ultimately depend on the facts of the particular case.

The withdrawal of public rulings

11. The Commissioner may withdraw either the whole or part of a Ruling. However, arrangements which had been entered into on the basis of a Ruling before its withdrawal will not be affected unless departure from a Ruling is justified on any of the grounds mentioned in paragraphs 8 and 9 above.

The date of effect of public rulings

12. Public rulings will generally have a past and future application. However, if a Ruling states that it only applies to arrangements which commenced after a specified date, then it only applies from that date. This may occur if the Ruling applies to a new provision of the law, or if the Commissioner considers that it would be unfair to apply a Ruling to arrangements commenced before the Ruling is made, even though there has not been an earlier Ruling on the matter. The basic principles and exceptions to the general rule of past and future applications for Rulings are more fully set out in TR 92/20.

The use of Draft Rulings

13. In the interest of proper consultation and to enhance the quality of a Ruling we will,

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in most instances, first issue a Draft Ruling on the subject and allow six weeks for comments.

14. A Draft Ruling will represent the preliminary, though considered, view of the ATO. A Draft Ruling may not be relied on. It is only final Rulings which represent authoritative statements on the particular matter covered by the Ruling.

The numbering of Rulings

15. Public rulings concerning the interpretation and administration of the PRRT Act will be issued under the MT (Miscellaneous Taxes) series as explained in paragraph 40 of TR 92/1. At the time of writing this Ruling only one Ruling on a PRRT matter, namely MT 2049, was issued under the old system.

16. The numbering system will follow that adopted for Taxation Rulings. That is, each Miscellaneous Ruling in the MT series issued after 1 January 1993 will have a prefix for the particular calendar year in which the Ruling issued. For example, Rulings issued in 1993 will have the prefix MT 93/.

17. Generally, the Rulings will be numbered in the order they are issued. Thus the first Ruling issued in 1993 will be MT 93/1, the second will be MT 93/2 and so on.

18. The last Miscellaneous Ruling issued in a calendar year will contain a statement that it is the last of that year and that the next Ruling will appear with a new prefix.

19. Draft Rulings in the MT series will be numbered MT 93/D.

Advance opinions

20. As mentioned above, advance opinions are those given in response to specific requests from persons seeking advice as to the PRRT consequences of proposed transactions.

21. Advance opinions on PRRT matters will be given in accordance with the guidelines contained in IT 2500 relating to income tax rulings and advance opinions. Those guidelines will be applied for the purposes of the PRRT

Act in like manner, with the necessary changes having been made, as they apply to advance opinions given in respect of income tax matters. A taxpayer would be able to request an advance opinion if it satisfies the requirements of IT 2500. Paragraph 21 of IT 2500 lists the requirements to be satisfied before a request for an advance opinion will be entertained.

22. We will apply to advance opinions given in respect of a PRRT matter the basic administrative policy of the ATO as stated in IT 2500. That is, we will stand by what is said in an advance opinion and depart from it only in the situations stated in IT 2500.

23. Requests for advance opinions on PRRT matters must be directed to the Moonee Ponds Office of the ATO. The matter will be dealt with by the Complex Advising section of that Office, the direct postal address of that section being:

P.O. Box 9739

Moonee Ponds, Vic. 3039

Commissioner of Taxation

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ATO references

NO
BO MPO-ADVC 5

Not previously released to
the public in draft form

Price \$0.40

FOI index detail

reference number
I 1013577

subject references

- advance opinions
- date of effect of public rulings
- draft public rulings
- nature of public rulings
- petroleum resource rent tax
- status of public rulings
- the numbering of public rulings
- withdrawal of public rulings

legislative references

Petroleum Resource Rent
Tax Assessment Act 1987
Taxation Laws Amendment
(Self Assessment) Act
1992