


TR 2000/8A - Addendum - Income tax: investment schemes

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Addendum

Taxation Ruling

Income tax: investment schemes

This Addendum amends Taxation Ruling TR 2000/8 to reflect the decisions of the Full Federal Court in *Federal Commissioner of Taxation v. Cooke* [2004] FCAFC 75; 2004 ATC 4268; (2004) 55 ATR 183 and *Federal Commissioner of Taxation v. Sleight* [2004] FCAFC 94; 2004 ATC 4477; (2004) 55 ATR 555.

Taxation Ruling TR 2000/8 is amended as follows:

1. Paragraph 36

a) Insert footnote reference 5a at the end of the first dot point with the content of the footnote being:

^{5a} However, see the decisions in *Federal Commissioner of Taxation v. Cooke* [2004] FCAFC 75; 2004 ATC 4268 [*Cooke*] and *Federal Commissioner of Taxation v. Sleight* [2004] FCAFC 94; 2004 ATC 4477 [*Sleight*] where, on the facts of each case, the method used in the pooling of the produce was not detrimental to the finding that participants were carrying on a business.

b) Insert footnote reference 5b at the end of the second dot point with the content of the footnote being:

^{5b} However, see the decision in *Cooke* where, on the facts of the case, this feature was not detrimental to the finding that participants were carrying on a business.

2. Paragraph 43

Insert footnote reference 5c at the end of paragraph 43 with the content of the footnote being:

^{5c} However, see the decisions in *Cooke* and *Sleight*, where it was determined on the facts of each case that business operations commenced upon the signing of the application form.

3. Paragraph 96

Insert footnote reference 8a at the end of paragraph 96 with the content of the footnote being:

^{8a} See footnote 5a.

4. Paragraph 106

a) Insert footnote reference 9a at the end of the first dot point with the content of the footnote being:

^{9a} See footnote 5a.

b) Insert footnote reference 9b at the end of the second dot point with the content of the footnote being:

^{9b} See footnote 5b.

5. Paragraph 121

Insert footnote reference 9c at the end of paragraph 117 with the content of the footnote being:

^{9c} See footnote 5c.

6. Paragraph 191

Insert footnote reference 12a at the end of paragraph 191 with the content of the footnote being:

^{12a} Support for this can be found in the decision in *Sleight*, for example Hill J's comments at paragraphs 78, 80, 82 and 94.

7. Paragraph 194

Insert footnote reference 12b at the end of paragraph 194 with the content of the footnote being:

^{12b} See for example, Hill J's comments in *Sleight* at paragraph 78 that the presence of a round robin financing arrangement in that case did not affect the genuineness of the transaction, but may indicate its purpose.

8. Paragraph 224

Insert footnote reference 12c at the end of paragraph 224 with the content of the footnote being:

^{12c} See footnote 5c.

9. Case references

Insert the following after paragraph 235 under the heading *Case references*:

- Federal Commissioner of Taxation v. Cooke [2004] FCAFC 75; (2004) 2004 ATC 4268; (2004) 55 ATR 183
- Federal Commissioner of Taxation v. Sleight [2004] FCAFC 94; (2004) 2004 ATC 4477; (2004) 55 ATR 555

This Addendum applies on and from 11 January 2006.

Commissioner of Taxation

11 January 2006

ATO references

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