


TR 2002/14A2 - Addendum - Income tax: taxation of retirement village operators

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Addendum

Taxation Ruling

Income tax: taxation of retirement village operators

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Taxation Ruling TR 2002/14, which was released on 28 June 2002, which discusses several issues as to the application of the tax laws to certain classes of persons, such as operators and residents, in respect of various operations and activities in the retirement village industry.

In *Retirement Village Operator v. Commissioner of Taxation* [2013] AATA 887 and *The Retirement Village Company v. Commissioner of Taxation* [2011] AATA 298, the Administrative Appeals Tribunal found that certain payments made by a retirement village operator to outgoing residents (or to their legal personal representatives) are deductible to the retirement village operator under section 8-1 of the *Income Tax Assessment Act 1997* (ITAA 1997). These payments represent a share of any increase in the entry price payable by a new resident (that is, the difference between the initial entry price paid by the outgoing resident and the entry price payable by the new resident).

These findings are contrary to the Commissioner's view that such payments are capital in nature and are not deductible under section 8-1 of the ITAA 1997.

Accordingly, this addendum for Taxation Ruling TR 2002/14 is issued.

TR 2002/14 is amended as follows:

1. Paragraph 50

Omit paragraph; substitute:

50. Where a village operator, in addition to repaying the deposit or loan received by a village operator upon the grant of a lease, makes a payment to an outgoing resident (or to their legal personal representatives) that represents a share of any increase in the entry price payable by a new resident (that is, the difference between the entry price paid by the outgoing resident and the entry price payable by the new resident), such payments are deductible under section 8-1.

TR 2002/14

This Addendum applies both before and after the date of issue.

Commissioner of Taxation

26 November 2014

ATO references

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