


TR 2002/9A2 - Addendum - Income tax: withholding from payments where recipient does not quote ABN

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Addendum

Taxation Ruling

Income tax: withholding from payments where recipient does not quote ABN

This Addendum amends Taxation Ruling TR 2002/9 to reflect amendments to the *A New Tax System (Goods and Services Tax) Act 1999*. In particular, the Addendum updates TR 2002/9 for amendments made to Subdivision 29-C.

The amendments to Subdivision 29-C are in relation to tax invoices and apply to net amounts for tax periods starting on or after 1 July 2010.

This Addendum also amends Taxation Ruling TR 2002/9 to reflect the amendment to subsection 12-190(5) of Schedule 1 to the *Taxation Administration Act 1953*, applicable for the 2010-11 and later years of income.

This Addendum also makes further minor amendments to TR 2002/9 for other minor technical changes.

TR 2002/9 is amended as follows:

1. Paragraph 18

In the last sentence, omit; 'or a superannuation fund.' substitute; 'superannuation fund, or an approved deposit fund.'

2. Paragraph 21

- (a) In the fourth and sixth dot point, omit '*'.
- (b) In the last sentence, omit; 'GSTR 2000/11' substitute; 'GSTR 2006/9'.

3. Paragraph 26

At the end of the paragraph omit; 'of a supply (see section 195-1 and 9-15 of the GST Act 1999).' substitute: 'of a supply.^{3A}'.

^{3A} Consideration' is defined in section 195-1 of the GST Act 1999.

4. Paragraph 40

- (a) In the fifth dot point, omit; 'charitable institution or by a trustee of a charitable fund' substitute; 'charity'.
- (b) Omit the sixth dot point.

5. Paragraph 44

In the third dot point, omit; 'subsection 12-45(3)' substitute; 'paragraph 12-45(1)(e)'.

6. Paragraph 51

- (a) At roman numeral (vii), omit; '(subsection 12-190(5)); or' substitute; '(paragraphs 12-190(5)(a) to (c))';.
- (b) Omit roman numeral (viii), substitute;
 - (viii) if the payment is from a closely held trust paying an amount to which section 12-175 or section 12-180 applies (paragraphs 12-190 (5)(d)-(f)); or
 - (ix) where the income is exempt income in the hands of the supplier (section 12-1).

7. Paragraph 58

Omit from the first sentence; 'It should also be noted that a tax invoice may be obtained up to 28 days after the supply has been made' substitute; 'The supplier of a taxable supply is required to give to the recipient a tax invoice within 28 days after a request to do so'.

8. Paragraph 60

- (a) Omit from the first sentence; '(except if it is an invoice created by an agent)'.
- (b) Omit footnote 8, substitute:

⁸ Subparagraph 29-70(1)(c)(i) of the GST Act 1999.

9. Paragraph 89A

Omit; 'subsection 29-80', substitute; 'subsection 29-80(1)'.

10. Paragraph 97

Omit subparagraph (e), substitute:

- (e) School tuckshops and canteens (Subdivision 40-E of the GST Act 1999); and

11. Paragraph 100

In the heading to paragraph 100, omit: '**subsection 12-190(5)**' substitute; '**paragraphs 12-190(5)(a)-(c)**'.

12. Paragraph 101

After paragraph 101, insert:

(viii) the payment is from a closely held trust paying an amount to which section 12-175 or section 12-180 applies – paragraphs 12-190(5)(d)-(f)

101A. The TFN withholding rules apply to closely held trusts (including family trusts) that are resident trusts. A withholding event arises in 2 situations:

- (a) where the trustee makes a distribution from trust income but the recipient beneficiary has not quoted a TFN prior to the distribution time - the trustee is required to withhold an amount from the distribution; and
- (b) where a beneficiary is presently entitled to trust income but has failed to quote a TFN by the end of the year of income - the trustee is required to withhold an amount from the beneficiary's share of the net income of the trust.

101B. A withholding obligation does not arise under section 12-175 or section 12-180 if:

- (a) the trust does not come within the section 12-175 definition of closely held trust or is otherwise excluded from the rules;
- (b) the beneficiary is within a class of beneficiaries excluded from the rules;
- (c) the distribution or share of net income is assessable to the trustee under subsection 98(1) of ITAA 1936, or is subject to the trustee beneficiary reporting rules or family trust distribution tax; or

- (d) the amount of the distribution or share of net income is below the threshold amount set out in regulations (section 12-185).

13. Paragraph 102

Omit the heading '*(viii) exempt income*' above paragraph 102, substitute; '*(ix) exempt income*'.

14. Detailed contents list

Omit:

<i>(vii) the payment is from an investment body paying an amount to which section 12-140 or section 12-145 applies - subsection 12-190(5)</i>	100
<i>(viii) exempt income</i>	102

Insert:

<i>(vii) the payment is from an investment body paying an amount to which section 12-140 or section 12-145 applies – paragraphs 12-190(5)(a)-(c)</i>	100
<i>(viii) the payment is from a closely held trust paying an amount to which section 12-175 or section 12-180 applies – paragraphs 12-190(5)(d)-(f)</i>	101
<i>(ix) exempt income</i>	102

15. Related Rulings/Determinations

- (a) Omit: 'GSTR 2000/11; GSTR 2000/17;'.
(b) Insert: 'GSTR 2006/9; GSTR 2013/1;'.

16. Legislative references

Omit:

- TAA 1953 12-45(3) Sch 1

Insert:

- TAA 1953 12-45(1)(e) Sch 1
- ANTS(GST)A 1999 29-70(1)(c)(i)

This Addendum applies on and from 1 July 2010.

Commissioner of Taxation
21 August 2013

ATO references

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