


# ***LCG 2015/1A1 - Addendum - Law Companion Guidelines: purpose, nature and role in ATO's public advice and guidance***

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# Addendum

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## Draft Law Companion Guideline

### Purpose, nature and role in ATO's public advice and guidance

This Addendum amends Draft Law Companion Guideline LCG 2015/D1 following consultation.

#### LCG 2015/D1 is amended as follows:

##### 1. Page status (all pages)

At the top of all pages; insert:

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Page status: **legally binding**

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##### 2. First page header and all footers

Omit 'Draft Law Companion Guideline LCG 2015/D1'; substitute 'Law Companion Guideline LCG 2015/1'

##### 3. Preamble

Omit 'Proposed preamble when finalised'; substitute 'Relying on this Guideline'

##### 4. Table of Contents

Omit:

| <b>Table of Contents</b>           | <b>Paragraph</b> |
|------------------------------------|------------------|
| What this draft Guideline is about | 1                |
| Proposed date of effect            | 3                |

Insert:

| <b>Table of Contents</b>     | <b>Paragraph</b> |
|------------------------------|------------------|
| What this Guideline is about | 1                |
| Date of effect               | 3                |
| <i>Example 5</i>             | 34A              |

##### 5. Paragraph 1

Omit 'draft' from the heading and paragraph.

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**6. Footnote 1**

Omit 'draft'.

**7. Paragraphs 2, 4, 7 and 11**

Omit 'draft'.

**8. Paragraph 3**

- (a) Omit the heading; substitute 'Date of effect'.
- (b) Omit the paragraph; substitute  
'This Guideline applies before and after its date of issue.'

**9. Paragraph 5**

In the first sentence, omit 'go'.

**10. Paragraph 6**

In the second dot point, at the second instance, omit 'draft'.

**11. Paragraph 12**

Omit the paragraph; substitute:

'12. The content in a Guideline is usually prepared contemporaneously with the development of the policy and the drafting of the Bill and Explanatory Memorandum. Throughout the legislative process, the ATO typically consults with Treasury and industry, and often this continues after introduction. In this way, a Guideline will often represent the considered views of the Commissioner, informed by a reasonable understanding of the intended policy and the compliance realities facing taxpayers at the very time that the law itself is shaped.'

**12. Paragraph 19**

Omit the second sentence; substitute:

'(see Date of Effect from paragraph 35 of this Guideline).'

**13. Paragraph 22**

After the paragraph, insert:

22A. Where appropriate in the context of the particular consultation process, a compendium may be prepared for a Guideline in the same manner that they are prepared for a public ruling.

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#### 14. Paragraph 23

Omit the paragraph; substitute:

'23. Ordinarily, a Guideline can be expected to be finalised in a manner consistent with the draft upon the new law coming into force. This will not be the case where there are good and substantial reasons to depart from the draft Guideline. 'Good and substantial reasons' include where significant changes are made to the Bill, or matters are raised in further consultation.

#### 15. Paragraph 26

After the word draft, insert ', such as when adequate consultation has already occurred'

#### 16. Paragraph 30

Omit 'shown above).'; substitute 'shown above).<sup>2A</sup>

#### 17. Paragraph 31

After the last sentence, insert:

*'In this case, the Commissioner would not amend or withdraw the Guideline with retrospective effect.'*

#### 18. Paragraph 34

After the paragraph, insert:

##### *Example 5*

*34A The Commissioner publishes a Guideline on a new law that creates a deduction. It is clear on reading the Guideline as a whole that the Commissioner's view is that Veronica is not entitled to the deduction. However, Veronica relies on a single sentence in the Guideline to support her claim for a deduction. Reliance on a single sentence in isolation is not relying on the Guideline in good faith and Veronica is not protected.*

#### 19. Paragraph 39

- (a) Omit the first sentence.
- (b) At the beginning of the second sentence omit 'Further specific'; substitute 'Over time, supplementary'.

#### 20. Paragraph 41

- (a) In the first sentence omit 'proposes to publish'; substitute 'publishes'.
- (b) Omit 'Guidelines.'; substitute 'Guidelines.<sup>5</sup>'.
- (c) At the beginning of the second sentence omit 'will be'; substitute 'are'.

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<sup>2A</sup> Refer also to paragraphs 6 to 8 of TR 2006/10, which discuss the concept of 'good faith' in the context of a public ruling.

<sup>5</sup> See PCG 2016/1 *Practical Compliance Guidelines: purpose, nature and role in ATO's public advice and guidance*

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**21. Paragraph 42**

After the paragraph, omit:

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**Commissioner of Taxation**

10 March 2016

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Substitute

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**Commissioner of Taxation**

3 June 2016

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**22. Your comments**

Omit the heading and paragraph.

**23. References**

- (a) Omit 'Income tax ~~ Administration ~~ public rulings'; substitute 'Administration ~~ Other'.
- (b) Insert TAA 1953 Sch 1 357-55
- (c) Insert PCG 2016/1

This Addendum applies on and from 3 June 2016.

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**Commissioner of Taxation**

3 June 2016

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**References**

ATO references

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|-----------------|-------------------------|
| ATOlaw topic(s) | Administration ~~ Other |
|-----------------|-------------------------|

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