


TD 93/D72 - Income tax: self assessment: must the Commissioner comply with an application for a private ruling in which the period is not specified? Can a private ruling be issued for an unspecified period?

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Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.

Draft Taxation Determination

Income tax: self assessment: must the Commissioner comply with an application for a private ruling in which the period is not specified? Can a private ruling be issued for an unspecified period?

1. Sections 14ZAF and 14ZAG of the *Taxation Administration Act 1953* provide for an application for a ruling on the way in which, in the Commissioner's opinion, a tax law or tax laws would apply to a person in respect of a year of income in relation to an arrangement. It follows that an application that does not specify the year of income for which a ruling is required is not an application with which the Commissioner is required to comply under subsection 14ZAL(1).

2. Section 14ZAS (TAA) requires that a private ruling set out the matter ruled on and, in doing so, identify the person, tax law, year of income and arrangement to which the ruling relates. Consequently, if the year of income to which a ruling relates is not specified, we could not issue a private ruling.

Example:

A taxpayer provides details of business activities that are being conducted and asks for a ruling on whether the Commissioner considers that the income arising from those activities would attract either average rebate or complementary tax. The issue for consideration is whether the taxpayer's activities constitute the carrying on of a business of primary production. As the business is ongoing, the taxpayer has shown the years of income to which the application relates as being the 'year ended 30 June 1993 and subsequent years'. We would issue a Private Ruling for the year ended 30 June 1993 but would not give an opinion in relation to the unspecified 'subsequent years'.

Commissioner of Taxation
18/3/93

FOI INDEX DETAIL: Reference No.

Related Rulings: TR 93/1

Subject Ref: Private Ruling

Legislative Ref: TAA 14ZAF; TAA 14ZAG; TAA 14ZAS; TAA 14ZAL

ATO Ref: D/92/0035/Par

ISSN 1038 - 8982