



MT 2005 - Freedom of Information Act 1982. Taxation Rulings - Pre 1 December 1982 Series (Referred to for convenience as conversion rulings)

 This cover sheet is provided for information only. It does not form part of *MT 2005 - Freedom of Information Act 1982. Taxation Rulings - Pre 1 December 1982 Series (Referred to for convenience as conversion rulings)*

 This document has changed over time. This is a consolidated version of the ruling which was published on *3 September 1997*

TAXATION RULING NO. MT 2005

FREEDOM OF INFORMATION ACT 1982.
TAXATION RULINGS - PRE 1 DECEMBER 1982 SERIES (REFERRED
TO FOR CONVENIENCE AS CONVERSION RULINGS)

F.O.I. EMBARGO: May be released

REF H.O. REF: 17 J39/1 P9 F123 DATE OF EFFECT:

B.O. REF: DATE ORIG. MEMO ISSUED:

F.O.I. INDEX DETAIL

REFERENCE NO: SUBJECT REFS: LEGISLAT. REFS:

I 1115101 RULINGS FOIA SECTION 9
TAXATION RULINGS
INDEXED DOCUMENTS
ASSESSING HANDBOOKS
CONVERSION RULINGS

OTHER RULINGS ON TOPIC: TAXATION RULING NO.1 AND MT 2001.

PREAMBLE

In the course of preparing uniform assessing handbooks for Australia wide use in the assessment of business, non-business, partnership, trusts, companies and superannuation funds a review was made of the references which the handbooks contain to technical rulings, instructions, memoranda and orders issued within the Taxation Office prior to 1 December 1982. As a result it has been necessary to convert those earlier rulings etc. to the new Taxation Ruling system. That conversion process has now been completed in respect of the greater proportion of the earlier rulings, etc.

[Note: This is a consolidated version of this document in that it has added the content of an Addendum to the end of the document. Refer to the Tax Office Legal Database (<http://law.ato.gov.au>) to check its currency and to view the details of all changes.]

2. Although comparatively few of the earlier rulings remain for conversion to the new system, it has been decided not to delay further the issue of the rulings which have been converted to the new system. The Rulings now issued as a result of that decision are subject to the following observations.

RULING

3. The reference made in some of the Conversion Rulings to quantitative data does not necessarily apply in respect of current assessing practices. However, the principles which the Rulings establish with regard to the application of the law continue to apply. Similarly, some Rulings may relate to provisions of the law which may no longer be operative - nevertheless the principles expressed in the Rulings continue to have application.

4. Taxation Ruling IT 262 (Education Expenses - Excursion by School Children) provides an example of this latter situation. The Ruling has been prepared from a memorandum which issued on 24 December 1968 when education expenses were considered under the concessional deduction provisions of the law. Notwithstanding the changes which have occurred in this area of the law, the principles established by the Ruling continue to apply in respect of education expenses now falling for consideration under the concessional expenditure rebate

provisions of the Assessment Act.

5. The publication of Taxation Rulings now converted from prior rulings has been restricted to the IT number range 2-2000. While it has not been possible to avoid gaps appearing in the numbering sequence of the Rulings, a complete numerical listing of Taxation Rulings released for public distribution has been provided to minimise inconvenience.

6. The conversion to Taxation Rulings of such a large volume of prior decisions has also created difficulties in maintaining a strict chronological order with the IT issuing and numbering process. For example, Tax Ruling IT 221 (Gratuity on Termination of Employment - Application of section 26(d)) refers to a direction which issued on 10 June 1980 whereas Tax Ruling IT 248 (Deceased Employees - Payments in respect of Furlough and Recreation Leave) originated from a decision dated 10 August 1978. It follows that when reference is made to Rulings in the number range IT 2-2000 regard should be had to the date of issue of the originating direction as a more relevant factor than the particular IT number of a ruling.

7. It is also important to restate the position that Taxation Rulings do not and cannot supplant the terms of the law. Statements or declarations by the Commissioner of Taxation or his officers do not have the effect of an estoppel against the operation of the taxation law as enacted by the Parliament. While Taxation Rulings are compiled with every care and are intended to assist in the interpretation of taxation laws in given circumstances, they may be overruled by legislative amendments or by the decisions of appellate tribunals. Furthermore, where a Ruling is given in the light of a particular fact situation the Ruling will be operative in the circumstances of that case and in all similar circumstances where the fact situation is considered analogous.

8. The Conversion Rulings now issued are issued subject to these necessary reservations.

COMMISSIONER OF TAXATION
26 August 1983

TAXATION RULING MT 2005

ADDENDUM

F.O.I. embargo: may be released

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1. This Addendum modifies the Ruling to reflect an enhancement of the Taxation Rulings system.
2. Addendum No.2 to Taxation Ruling No.1 introduces the issue of Notices of Withdrawal and Notices of Archival as a means of assisting users of IT and MT series Rulings to quickly ascertain the current status of a particular Ruling.
3. The introduction of these Notices modifies paragraph 3 of Taxation Ruling MT2005. The paragraph refers to Conversion Rulings that relate to provisions of the law which, at the time the Rulings were issued, may no longer have been operative.
4. Rulings which are based on statutory provisions which are no longer operative are generally redundant.
5. A Notice of Archival can now be issued at the time a Ruling has been identified as having been made redundant by legislative change. The Notice will contain details of the timing of the repeal or discontinuance of the relevant statutory provisions.
6. A Notice of Archival recognises that the Ruling continued to apply until the statutory provisions on which it was based ceased to operate. By this means any interpretative principle contained in the Ruling may be regarded as being of relevance in an analogous current context.
7. A Notice of Withdrawal can be issued instead of a Notice of Archival if the Ruling is replaced by another Ruling.

Issue of Notices of Withdrawal and Notices of Archival

8. To assist users of Rulings to identify current guidelines in a particular area of taxation law it is desirable that the 'withdrawn' or 'archived' status of a Ruling be documented as soon as practicable after the attribution to the Ruling of either status is identified.
9. For those Rulings to which a 'withdrawn' or 'archived' status has been attributed prior to the issue of this Addendum, the Notices of Withdrawal and Notices of Archival will be issued in the course of the Review of Taxation Rulings issued before 1 July 1992.
10. Notices of Withdrawal and Notices of Archival will supplement the original Ruling document in the same way as an Addendum or Erratum.

COMMISSIONER OF TAXATION
8 July 1993

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TAXATION RULING MT 2005

Taxation Rulings - pre 1 December 1982 series

ADDENDUM No 2

FOI EMBARGO: may be released

1. This Addendum changes the arrangements set out in Addendum No 1 for archiving Rulings in the MT series. Addendum No 1 explains that we archive Rulings that have been made redundant by legislative change.
2. Archival applies also to Rulings in the IT series that we made before 1 July 1992 and the changed arrangements are described in Addendum No 2 to Taxation Ruling IT 1.
3. On 1 July 1992, Part IVAAA of the *Taxation Administration Act 1953* came into effect. That Part allows for binding 'public rulings' which the Commissioner can withdraw but there is no reference to archival. We have not archived any 'public rulings' and have only archived Rulings in the IT or MT series.
4. We have decided we will no longer issue a Notice of Archival for a Ruling in the MT series (or IT series) when it becomes redundant by legislative change. In those circumstances, a Notice of Withdrawal will now issue.
5. We will withdraw progressively all Rulings in the MT series for which we have issued Notices of Archival.
6. Addendum No 1 to this Ruling is amended, with effect from today, by omitting paragraphs 5 to 10 (inclusive) and substituting:

'Issue of Notices of Withdrawal

5. To assist users of Rulings to identify current guidelines in a particular area of taxation law it is desirable that the 'withdrawn' status of a Ruling be documented as soon as practicable after the attribution to the Ruling of that status is identified.
6. A Notice of Withdrawal supplements the original Ruling in the same way as an Addendum or Erratum.'

Commissioner of Taxation

3 September 1997