


MT 2006/1A5 - Addendum - The New Tax System: the meaning of entity carrying on an enterprise for the purposes of entitlement to an Australian Business Number

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Addendum

Miscellaneous Taxation Ruling

The New Tax System: the meaning of entity carrying on an enterprise for the purposes of entitlement to an Australian Business Number

This Addendum amends Miscellaneous Taxation Ruling MT 2006/1 to make minor editorial changes and to ensure consistency with Taxation Ruling TR 2019/1 *Income tax: when does a company carry on a business?*

MT 2006/1 is amended as follows:

1. Paragraph 8

Omit 'Commonwealth Government'; substitute 'Australian Government'.

2. Paragraph 23A

Omit 'GST Act 1999'; substitute 'GST Act'.

3. Paragraph 25B

Omit the wording of footnote 9D; substitute:

Section 195-1 of the GST Act states that connected to the indirect tax zone, in relation to a supply, has the meaning given by sections 9-25, 84-75, 85-5 and 126-27 of that Act. Further information about this term can be found in GSTR 2018/1 *Goods and services tax: supplies of real property connected with the indirect tax zone (Australia)*, GSTR 2018/2 *Goods and services tax: supplies of goods connected with the indirect tax zone (Australia)* and GSTR 2019/1 *Goods and services tax: supply of anything other than goods or real property connected with the indirect tax zone (Australia)*.

4. Paragraph 76

Omit the wording of footnote 28; substitute:

Subsection 25(2) and regulation 6 of the *A New Tax System (Australian Business Number) Regulations 1999* (ABN Regulations). However, not all the information about an entity that is contained in the Australian Business Register is available to the public. One of the details not available is the name of the trustee, see section 26 and regulation 8 of the ABN Regulations.

5. Paragraph 117

In footnote 48, omit 'paragraph 9-20(1)(f)'; substitute 'paragraph 9-20(1)(e)'.

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6. Paragraph 144

In footnote 54, omit 'Australian Securities and Investment Commission'; substitute 'Australian Securities and Investments Commission'.

7. Paragraph 179

Omit the wording of footnote 61; substitute:

See also Taxation Ruling TR 2003/4 *Income tax: boat hire arrangements*, Taxation Ruling TR 2005/1 *Income tax: carrying on business as a professional artist* and Taxation Ruling TR 2019/1 *Income tax: when does a company carry on a business?*, which consider the issue of carrying on a business in a particular context and can be referred to for further guidance.

8. Paragraph 191

At the end of the paragraph, insert footnote 64A:

^{64A} TR 2019/1 provides further advice on when a company carries on a business. Generally, in the case of a company incorporated for the purpose of making profits it is presumed to be carrying on a business in relation to any gainful use to which it puts any of its assets. See *American Leaf Blending Co Sdn Bhd v Director General of Inland Revenue* [1978] 3 All ER 1185, per Diplock J.

9. Paragraph 192, 198 and 199

Omit the paragraphs.

10. Paragraph 200

- (a) Omit the words 'company or other'.
- (b) At the end of the introductory sentence, insert footnote 69A:

^{69A} See also TR 2019/1 for guidance on when a holding company is carrying on a business.

11. Paragraph 205

At the end of the paragraph, insert footnote 69B:

^{69B} The facts in this example are distinguishable from those in Example 6 (Possibility A) in TR 2019/1 (see paragraphs 81 and 82 of that Ruling) where the company is undertaking more activities in managing the company group.

12. Paragraph 212

Omit 'Australian Securities and Investment Commission'; substitute 'Australian Securities and Investments Commission'.

This Addendum applies on and from 5 February 2020.

Commissioner of Taxation

5 February 2020

ATO references

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