

MT 2008/2A2 - Addendum - Shortfall penalties: administrative penalty for taking a position that is not reasonably arguable

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Addendum

Miscellaneous Taxation Ruling

Shortfall penalties: administrative penalty for taking a position that is not reasonably arguable

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Miscellaneous Taxation Ruling MT 2008/02 to take into account the commencement of the Minerals Resource Rent Tax (MRRT) from 1 July 2012 recognising that the lack of reasonably arguable position shortfall penalty contained in Division 284 of Schedule 1 to the *Taxation Administration Act 1953* will apply to MRRT.

MT 2008/2 is amended as follows:

1. Paragraph 4

Omit 'income tax law'; substitute 'relevant tax law, which, for the purposes of this Ruling, is an income tax and minerals resource rent tax (MRRT) law'

2. Paragraph 14

After the second dot point insert:

- MRRT matters for the year commencing 1 July 2012 and later years; and

3. Paragraph 16

After 'goods and services tax'; insert ', MRRT, petroleum resource rent tax'

4. Paragraphs 17, 19, 32, 68, 70 and 80

Omit 'an income tax law'; substitute 'a relevant tax law'.

5. Paragraph 21

Omit 'income tax law'; substitute 'relevant tax law'.

MT 2008/2

6. Paragraphs 27 and 29

Omit 'income'.

7. Paragraph 33

Omit the first dot point, substitute:

- where the shortfall amount exceeds the greater of \$10,000 or 1% of the tax payable for the tax year on the basis of the entity's tax return (item 4 in the table in subsection 284-90(1)); or

8. Heading preceding paragraph 72

Omit the heading; substitute:

Example 4 – error of fact – income tax matter

9. Paragraph 76

After paragraph 76 add:

MRRT law

76A. MRRT law under section 300-1 of the *Minerals Resource Rent Tax Act 2012* (MRRTA) means:

- MRRTA;
- any Act that imposes MRRT;
- the TAA, so far as it relates to any Act covered by paragraphs (a) and (b);
- any other Act, so far as it relates to any Act covered by paragraphs (a) to (c) (or to so much of that Act as is covered); and
- regulations under an Act, so far as they relate to any Act covered by paragraphs (a) to (d) (or to so much of that Act as is covered).

10. Paragraph 85

Omit:

Example 4 – error of fact 72

Insert:

Example 4 – error of fact – income tax matter 72

MRRT Law 76A

11. Legislative references

Insert:

- MRRTA 2012
- MRRTA 2012 300-1

This Addendum applies on and from 1 July 2012, the day of commencement of the MRRT.

Commissioner of Taxation

11 July 2012

ATO references

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ATOLaw topic: Income Tax ~~ Administration ~~ penalty tax and general interest charge