


# ***PR 1995/95A - Addendum - Income tax and fringe benefits tax: Product Rulings system***

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## Addendum

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### Product Ruling

#### Income tax and fringe benefits tax: Product Rulings system

This Addendum amends Product Ruling PR 1999/95 to incorporate the recommended changes for public rulings stated in the *Report on Aspects of Income Tax Self Assessment* (ROSA Report). These changes were enacted under the *Tax Laws Amendment (Improvements to Self Assessment) Act (No. 2) 2005*. In respect of public rulings, that Act inserted new Divisions 357 (common rules) and 358 (public rulings) into Schedule 1 to the *Taxation Administration Act 1953*, the provisions of which are referred to in this Ruling.

#### **PR 1999/95 is amended as follows:**

##### **1. Preamble**

Omit Preamble and substitute:

This publication is a public ruling for the purposes of the *Taxation Administration Act 1953*.

A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.

If you rely on this ruling, we must apply the law to you in the way set out in the ruling (or in a way that is more favourable for you if we are satisfied that the ruling is incorrect and disadvantages you, and we are not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any under-paid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

##### **2. The Ruling**

- (a) Omit the words 'arrangement' and 'arrangements' (wherever occurring); substitute 'scheme' and 'schemes' respectively.
- (b) Omit the words 'person' and 'persons' (wherever occurring); substitute 'entity' and 'entities' respectively.

### 3. Paragraph 8

Omit 'Part IVAAA of'; substitute 'Division 358 of Schedule 1 to'.

### 4. Paragraph 11

Omit the paragraph and substitute:

#### **Class of entity/scheme**

11. Division 358 of Schedule 1 of the TAA contains the public ruling provisions and sets out what is necessary for a published opinion of the Commissioner to be a public ruling. A product ruling sets out the Commissioner's opinion as to the way in which a 'relevant provision' applies to a class of entities in relation to a scheme (subsection 358-5(1) of Schedule 1 to the TAA).

### 5. Paragraph 14

Omit the paragraph and substitute:

#### **Relevant provision**

14. Provisions that are relevant to rulings are defined in section 357-55 of Schedule 1 to the TAA. A 'relevant provision' is a provision of an Act or regulation administered by the Commissioner that is about any of the following:

- income tax;
- Medicare levy;
- fringe benefits tax;
- franking tax (that is, franking deficit tax, over-franking tax and venture capital deficit tax);
- withholding taxes (including non-resident withholding taxes and mining withholding tax);
- the administration or collection of the above taxes;
- product grants or benefits mentioned in section 8 of the *Product Grants and Benefits Administration Act 2000* (including energy grants, cleaner fuel grants and product stewardship (oil) benefits); and
- the administration or payment of the above grants and benefits.

**6. Paragraph 15**

- (a) Omit 'tax law'; substitute 'relevant provision'.
- (b) Omit '(section 14ZAAD of the TAA)'.

**7. Detailed contents list**

Omit 'Tax law'; substitute 'Relevant provision'.

**8. Paragraph 39**

Omit the paragraph and substitute:

39. Product Rulings will generally be withdrawn where no longer needed. For example, a Product Ruling will be withdrawn where the Commissioner is satisfied that the scheme in relation to which the Product Ruling issued, is no longer to be implemented or the scheme has been implemented but in a way materially different from that described in the Ruling. A Product Ruling, although withdrawn, will continue to bind the Commissioner in relation to those to whom the Ruling applies, who entered into the scheme as described in the Ruling during the currency of the Ruling.

39A. If a Product Ruling is inconsistent with a later public or private ruling, the relevant class of entity/entities may rely on either ruling which applies to them (subsection 357-75(1) item 1 of Schedule 1 to the TAA).

39B. If a private ruling is inconsistent with a later Product Ruling, the earlier private ruling is taken not to have been made if, when the Product Ruling is made, the following two conditions are met:

- the income year or other period to which the rulings relate has not begun; and
- the scheme to which the rulings relate has not begun to be carried out.

If the above two conditions do not apply, the relevant class of entity/entities may rely on either ruling which applies to them (subsection 357-75(1) item 3 of Schedule 1 to the TAA).

This Addendum applies to Product Rulings issued on and from 1 January 2006.

Product Ruling

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**Commissioner of Taxation**

5 April 2006

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