

# ***PR 2007/71A2 - Addendum - The Product Rulings System***

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# Addendum

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## Product Ruling

### The Product Rulings system

This Addendum amends Product Ruling PR 2007/71 to take into account the inclusion of indirect tax and excise rulings into the public rulings system following the enactment of *Tax Laws Amendment (2010 GST Administration Measures No. 2) Act 2010*. This implements the Government's response to the *Board of Taxation's Review of the Legal Framework for the Administration of the GST* which recommended harmonising the indirect tax rulings system with the general rulings system.

#### **PR 2007/71 is amended as follows:**

##### **1. Paragraph 2**

- (a) Omit 'paragraphs 109 to 111'; substitute 'paragraph 109'.
- (b) Omit 'Tax Office'; substitute 'Australian Taxation Office (ATO)'.

##### **2. Paragraph 5**

At the end of the paragraph, insert the footnote:

<sup>1A</sup> Taxation Ruling TR 2006/10 provides further information on the public rulings system.

##### **3. Paragraph 12**

Omit the last three dot points; substitute:

- indirect tax (including goods and services tax (GST), wine tax and luxury car tax (LCT));
- excise duty;
- the administration or collection of the above taxes levies and duties;
- 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) or the administration or payment of the above grants and benefits;
- net fuel amount, or the administration, collection or payment of a net fuel amount;

- a net amount, or the administration, collection or payment of a net amount; and
- a wine tax credit, or the administration or payment of a wine tax credit.

**4. Paragraphs 27, 54, 55, 57, 58, 59, 60, 61, 62, 67, 72A, 73A, 73B, 79, 90, and 104 and footnotes 12 and 14**

Omit all occurrences of 'Tax Office'; substitute 'ATO'.

**5. Paragraph 35**

Omit the paragraph; substitute:

35. Except in limited circumstances Product Rulings that relate to agribusiness or 'forestry managed investment schemes' have prospective application only. Therefore, unless the relevant agribusiness or 'forestry managed investment scheme' Product Ruling clearly states that it will apply from a different date, an agribusiness or 'forestry managed investment scheme' Product Ruling applies only to entities that:

- are within the specific class of entities set out in the Ruling (see paragraphs 48 to 52 of this Ruling); and
- enter into the scheme on or after the date the Product Ruling has issued.

35A. Product Rulings that relate to financial products may, in certain circumstances, have a prospective and/or retrospective application. Therefore, unless the relevant financial Product Ruling clearly states that it will only apply to entities that enter into the scheme on or after the date the Product Ruling has issued, it may apply to entities that enter into the scheme before the date the Product Ruling has issued. Financial Product Rulings that have retrospective application will be limited to Rulings that issue in the same financial year as an entity's entrance into the scheme. For the purposes of this Product Ruling, a financial Product Ruling is any Product Ruling that is not in respect of agribusiness or 'forestry manages investment scheme' products and may include real property investment schemes and insurance schemes.

**6. Paragraph 36**

Omit 'before'; substitute 'outside of'.

**7. Paragraph 37**

Omit the paragraph; substitute:

37. An example of when a Product Ruling that relates to an agribusiness or 'forestry managed investment scheme' product might not have a prospective application is where the Ruling considers the operation of a tax law that has been enacted or amended after the date on which participating entities were first able to enter into the scheme and the new or amended law is relevant to their liability to tax after that date. This occurred, for example, when Division 35 of the *Income Tax Assessment Act 1997* (ITAA 1997) introduced the non-commercial loss measures.

37A. An example of when a Product Ruling that relates to a financial product might have a retrospective application is where an entity enters into the scheme in January of a particular financial year and the product issuer subsequently applies for a product ruling in March of the same financial year. The Commissioner may consider, in these circumstances, ruling for a retrospective period to provide certainty to the investor who entered into the scheme in January.

**8. Paragraph 47**

- (a) Omit 'Copyright Law Branch'; substitute 'Copyright and Classification Policy Branch'.
- (b) Insert '3-5' before 'National Circuit'.

**9. Paragraph 49**

Omit 'after the 'date of effect' (see paragraph 35 of this Ruling) and'.

**10. Paragraph 81**

- (a) Omit 'the Tax Office'; substitute 'he/she'.
- (b) Omit 'our'; substitute 'the Commissioner's'.

**11. Subparagraph 87(i)**

Before the last dot point, insert:

- where the matter sought to be ruled on is already being, or has been considered by the Commissioner, for example, in the course of a review, an audit or in deciding an objection against an assessment;

## 12. Paragraphs 109 to 111

Omit the paragraphs; substitute:

109. Where there are inconsistent rulings that both apply to the entity, section 357-75 of Schedule 1 to the TAA sets out rules for determining which ruling may be relied upon, to the extent of the inconsistency. Refer to Taxation Ruling TR 2006/10 for an explanation of the Commissioner's view on how this provision applies.

## 13. Paragraph 112

Omit the paragraph including heading; substitute:

### **Accessing information about Product Rulings on the ATO's internet site**

112. The ATO website, [www.ato.gov.au](http://www.ato.gov.au), includes contact names and details, important forms, and useful information for applicants and users of Product Rulings. The ATO Legal Database, [www.law.ato.gov](http://www.law.ato.gov), contains all published Product Rulings which can be downloaded in full.

## 14. Paragraph 114

Omit:

Accessing information about Product Rulings on the Tax Office's internet site 112

Substitute:

Accessing information about Product Rulings on the ATO's internet site 112

This Addendum applies on and from 1 July 2010.

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**Commissioner of Taxation**

6 April 2011

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ATO references

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