



# ***PR 2007/71A6 - Addendum - The Product Rulings system***

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# Addendum

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## Product Ruling

### The Product Rulings system

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Product Ruling PR 2007/71 to reflect legislative changes to promoter penalty laws in Division 290 of Schedule 1 to the *Taxation Administration Act 1953*.

PR 2007/71 is amended as follows:

**1. Paragraph 3**

Omit 'Product'.

**2. Paragraph 4**

Omit the wording of the paragraph; substitute:

This Ruling replaces Product Ruling PR 1999/95 *Income tax and fringe benefits tax: Product Rulings system*, which is withdrawn on and from the date this Ruling takes effect.

**3. Paragraph 5**

- (a) Omit '(see paragraph 12 of this Ruling)'.
- (b) Omit footnote 1A.
- (c) At the end of the paragraph, insert new footnote A1:

<sup>A1</sup> Taxation Ruling TR 2006/10 *Public rulings* provides further information on the public rulings system.

**4. Paragraph 6**

Omit 'between private rulings and Product Rulings'.

**5. Paragraph 7**

- (a) Omit ', including Product Rulings in relation to particular 'products''; substitute 'such as Product Rulings'.
- (b) In footnote 1, omit 'Re'.
- (c) In footnote 1, omit 'the policy of the relevant statute.'; substitute 'the policy of the relevant statute'.

**6. Paragraph 8**

- (a) After 'set out in the Ruling', insert new footnote 1B:

<sup>1B</sup> See *Bellinz Pty Ltd & Ors v The Commissioner of Taxation* [1998] FCA 615.

- (b) In the quotation, omit '(see *Bellinz Pty Ltd v. FCT* (1998) 84 FCR 154, at 168-9 (A-B) (Full Court))'; substitute a full stop.

**7. Paragraph 12**

Omit the wording of the paragraph; substitute:

The Commissioner can issue rulings only on relevant provisions. Relevant provisions are provisions of Acts and regulations administered by the Commissioner that are about any of the matters listed in section 357-55 of Schedule 1 to the TAA.

**8. Paragraph 13**

Omit 'Ruling: see *Bellinz Pty Ltd v. FCT* (1998) 98 ATC 4399 at 4413 (Merkel J), *Bellinz Pty Ltd v. FCT* (1998) 84 FCR 154 at 169 (C-D) (Full Court)'; substitute 'Ruling: see *Bellinz Pty Ltd v The Commissioner of Taxation of the Commonwealth of Australia* [1998] FCA 284; 98 ATC 4399 at [4413], per Merkel J, *Bellinz Pty Ltd & Ors v The Commissioner of Taxation* [1998] FCA 615; 84 FCR 154 at [169]'.

**9. Paragraph 15**

Omit 'Ruling: see *Bellinz Pty Ltd v. FCT* (1998) 84 FCR 154 at 169 (A-B) (Full Court)'; substitute 'Ruling: see *Bellinz Pty Ltd & Ors v The Commissioner of Taxation* [1998] FCA 615; 84 FCR 154 at [169]'.

**10. Paragraph 17**

Omit the wording of the paragraph; substitute:

As a public ruling, Product Rulings are binding on the Commissioner to the extent provided by Subdivision 357-B of Schedule 1 to the TAA (see paragraphs 30 to 38 of TR 2006/10).

**11. Paragraph 19**

Omit the wording of the paragraph; substitute:

If the scheme that is actually carried out is materially different to the scheme described in a Product Ruling, entities participating in the scheme are not able to rely on the Product Ruling and the Ruling has no binding effect on the Commissioner: see *Bellinz Pty Ltd v The Commissioner of Taxation of the Commonwealth of Australia* [1998] FCA 284; 98 ATC 4399 at [4413], per Merkel J, *Bellinz Pty Ltd & Ors v The Commissioner of Taxation* [1998] FCA 615; 84 FCR 154 at [169], *Carey v Field* [2002] FCA 1173 at [47], per Merkel J. Subject to the rules of natural justice, where the Commissioner becomes aware of, or is made aware of a scheme being carried out in a materially different way to the scheme set out in the Product Ruling, the Ruling will be withdrawn. A difference will be material

if it results in a tax outcome being different to that set out in the Product Ruling: see *Carey v Field*, mentioned above, generally.

**12. Paragraph 31**

- (a) Omit the wording of the paragraph; substitute:

A scheme may have been promoted on the basis of conformity with a Product Ruling when the scheme promoted is materially different from that described in the Ruling. A scheme may also have been promoted on the basis of conformity with a Product Ruling being implemented in a way that is materially different from that described in the Ruling. In these instances, the Commissioner may apply the promoter penalty laws.<sup>4A</sup> Where applicable, the Commissioner may apply to the Federal Court for sanctions, remedies (or both) to address this conduct.<sup>4B</sup>

- (b) Omit footnote 4.

- (c) After 'promoter penalty laws.', insert footnote 4A:

<sup>4A</sup> Division 290 of Schedule 1 to the TAA.

- (d) After 'address this conduct.', insert footnote 4B:

<sup>4B</sup> See Law Administration Practice Statement PS LA 2021/1 *Application of the promoter penalty laws*, which sets out the administrative procedures that will be used in applying the promoter penalties laws.

**13. Paragraph 32**

Omit the paragraph, including footnote 5.

**14. Paragraph 33**

Omit the paragraph.

**15. Paragraph 34**

At the end of the paragraph, insert 'The date of effect will generally be prospective but may be retrospective in certain circumstances.'

**16. Paragraph 35**

- (a) Omit 'Except in limited circumstances'.

- (b) After 'forestry managed investment schemes', insert 'generally'.

**17. Paragraph 35A**

Omit 'Product Rulings that relate to financial products may, in certain circumstances, have a prospective and/or retrospective application.'; substitute 'Product Rulings that relate to financial products can have retrospective application in certain circumstances.'

**18. Paragraph 41**

Omit the wording of the paragraph; substitute:

For certain financial products, a Product Ruling, generally, will have a 3-year application period for entering into the scheme covered by the Ruling. However, the Ruling will continue to apply to schemes entered into before the end of the application period. For example, a Product Ruling may deal with a scheme involving a loan arrangement of, say, 5 years. While the application period for entering the scheme may be limited in the Product Ruling to 3 income years, the Ruling will set out how the tax laws apply to the loan product over its full 5-year term provided the scheme was entered into before the end of the application period.

**19. Paragraph 42**

Omit 'two'; substitute '2'.

**20. Paragraph 44**

Omit the wording of the paragraph; substitute:

Product Rulings are:

- grouped as the 'PR' series; and
- prefixed for the particular calendar year in which they issue.

**21. Paragraph 45**

(a) Omit the wording of the paragraph; substitute:

As a Product Ruling is a type of public ruling, the Ruling must be published and notice of the making of it must be given by notifiable instrument (section 358-5 of Schedule 1 to the TAA).<sup>7</sup>

(b) Omit the wording of footnote 7; substitute 'The validity of a ruling is not necessarily affected if one of these things is not done – see Note to section 358-5 of Schedule 1 to TAA.'

**22. Paragraph 46**

Omit the wording of the paragraph; substitute:

If the Commissioner withdraws a Product Ruling (see paragraphs 102 to 108 of this Ruling), notice of the withdrawal must also be published by notifiable instrument (section 358-20 of Schedule 1 to the TAA).

**23. Paragraph 55**

Omit 'Product Ruling [‘Agreement on Terms of Use’](#) available on [ato.gov.au](#)'; substitute '[Product Rulings – Terms of Use](#)'.

**24. Paragraph 57**

Omit the wording of the paragraph; substitute

In the first instance, an entity intending to apply for a Product Ruling is encouraged to contact the ATO prior to submitting a formal application. Details of the application process, information requirements and how to obtain assistance, if required, are available at [Applying for a product ruling](#).

**25. Paragraph 68**

Omit 'by the Application Checklist'; substitute a comma.

**26. Paragraph 74**

Omit 'and/or'; substitute 'or'.

**27. Paragraph 78**

Omit the wording of the paragraph; substitute:

A draft Product Ruling differs fundamentally from a published draft Taxation Ruling. A draft Product Ruling offers no protection to the class of entities set out in the Ruling. It should not be provided to third parties until making of the Product Ruling is published by notifiable instrument and the Product Ruling is published on the [ATO Legal database](#). Further, it should not be referred to in marketing materials of the applicant or others until these events happen.

**28. Paragraph 79**

Omit the wording of the paragraph; substitute:

The issuing of a Product Ruling in relation to a particular product is conditional on the applicant:

- (a) acknowledging that the Commissioner will reveal in the Ruling
  - the name of each of the entities involved as principals in the carrying out of the scheme;
  - the name and a description of the product; and
  - a full list and a description of the material parts of each of the agreements, deeds and transactions to which the participants are parties;
- (b) obtaining and providing the express consent from all parties, including all third parties, who are parties to the scheme set out the Product Ruling, to be named in the Ruling;
- (c) acknowledging that the description of the Product contained in the proposed Ruling is accurate; and
- (d) agreeing to personally sign and abide by the undertakings set out in the [Product rulings – terms of use](#) (see paragraph 112 of this Ruling).

**29. Paragraph 81**

Omit the wording of the paragraph; substitute:

Where the Commissioner is unable to rule favourably, and if the applicant wishes to test the Commissioner's views, a private ruling will be issued in response to a valid application by a proposed participating entity, enabling the relevant review processes to occur.

**30. Paragraph 86**

In the third dot point, omit 'if'.

**31. Paragraph 87**

- (a) In dot point (a), omit 'in situations where'.
- (b) In dot point (c), omit 'where'.
- (c) In dot point (d), omit 'where'.
- (d) In the third sub-point of dot point (g); omit 'and/or'; substitute 'or'.
- (e) In the fourth sub-point of dot point (g), omit 'Product Ruling – 'Agreement on Terms of Use''; substitute 'Product Rulings – Terms of Use'.
- (f) In dot point (i), omit 'and/or'; substitute 'or'.
- (g) In the first sub-point of dot point (i); omit '. An example may be the 'arm's length consideration' requirements in Division 13 of Part III of the *Income Tax Assessment Act 1936* (ITAA 1936)'.
- (h) In the second sub-point of dot point (i); omit 'where'.
- (i) In the third sub-point of dot point (i); omit 'where'.
- (j) In the fourth sub-point of dot point (i); omit 'where'.
- (k) In dot point (j); omit 'where'.

**32. Paragraph 89**

Omit 'Product Ruling 'Agreement on Terms of Use''; substitute 'Product Rulings – Terms of Use'.

**33. Paragraph 90**

- (a) Omit 'Product Ruling 'Agreement on Terms of Use''; substitute 'Product Rulings – Terms of Use'.
- (b) Omit the wording of footnote 12; substitute 'Notification should be to the Product Rulings area which issued the Product Ruling.'
- (c) In the second sub-point of dot point (f), omit 'and/or'; substitute 'or'.

**34. Paragraph 94**

Omit 'or whether it has not'.

**35. Paragraph 95**

Omit the wording of footnote 17; substitute 'Defined in subsection 995-1(1) of the ITAA 1997.'

**36. Paragraph 96**

Omit 'three'; substitute '3'.

**37. Paragraph 99**

Omit the wording of the paragraph; substitute:

Section 262A of the *Income Tax Assessment Act 1936* (ITAA 1936) also imposes **record-keeping requirements** on 'participants'<sup>18</sup> in 'forestry managed investment schemes' and 'forestry managers' of 'forestry managed investment schemes'.

**38. Paragraph 100**

Omit 'five'; substitute '5'.

**39. Paragraph 101**

Omit 'five'; substitute '5'.

**40. Paragraph 103**

Omit "Agreement on Terms of Use" has' substitute 'Product Rulings – Terms of use have'.

**41. Paragraph 104**

Omit the wording of the first dot point; substitute:

where there is any difference that is considered to be capable of affecting the tax outcome of the scheme for any entity within the class of entities to whom the Ruling relates: see generally *Aitken v Commissioner of Taxation* [2025] FCA 372 especially at [164] and [172]; *Carey v Field* [2002] FCA 1173; compare *Bellinz Pty Ltd v The Commissioner of Taxation of the Commonwealth of Australia* [1998] FCA 284; 98 ATC 4399, especially at [4413]; *Bellinz Pty Ltd & Ors v The Commissioner of Taxation* [1998] FCA 615; 84 FCR 154 at [169];

**42. Paragraph 107**

Omit '*Carey v. Field* [2002] FCA 1173 at [56]-[58] and compare with *Remuneration Planning Corporation Pty Ltd v. FCT* (2002) ATC 4130 at 4134-4135'; substitute '*Carey v Field* [2002] FCA 1173 at [56–58] and compare with *Remuneration Planning Corporation Pty Ltd v Commissioner of Taxation* [2001] FCA 255; 2001 ATC 4130 at [4134–4135]'

**43. Paragraph 109**

Omit 'Taxation Ruling'.

**44. Paragraph 112**

Omit the wording of the paragraph; substitute:

When the Commissioner issues a Product Ruling, how to apply, how the ATO processes Product Rulings and detailed information for certain Product Ruling types are available at [Product rulings](#). All published Product Rulings are available on the [ATO Legal Database](#).

**45. Paragraph 114**

Omit 'Impact of legislative amendment'; substitute 'The impact of legislative amendment'.

This Addendum applies both before and after its date of issue.

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**Commissioner of Taxation**

26 November 2025

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ATO references

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