

PS LA 2000/8 - Protection to taxpayers relying on GST Public Rulings that issued as drafts before 1 July 2000.

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ATO Practice Statement

Law Administration

PS LA 2000/8

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FOI status: may be released

This Practice Statement is issued under the authority of the Commissioner and must be read in conjunction with Law Administration Practice Statement PS LA 1998/1. It must be followed by ATO officers unless doing so creates unintended consequences. Where this occurs ATO officers must follow their Business Line's escalation process.

SUBJECT: **Protection to taxpayers relying on GST Public Rulings that issued as drafts before 1 July 2000**

PURPOSE: **This Law Administration Practice Statement outlines the scope of protection that the Australian Taxation Office (ATO) will allow taxpayers who have relied on a GST Public Ruling that issued as a draft before 1 July 2000.**

BACKGROUND

1. The GST business line originally identified 15 'foundation' Public Rulings that were considered necessary for the start of the GST system. Subsequently, in consultation with industry, additional Public Rulings have been added to the Program. For the purposes of this Law Administration Practice Statement, Public Rulings includes Determinations.
2. As at 30 June 2000, 39 Public Rulings had finalised and 7 had issued as drafts but had not finalised.
3. Normally, a draft of a Public Ruling may not be relied on by entities as it merely represents the preliminary, though considered views of the ATO and generally provides a consultation mechanism to gain community and professional views on the ATO interpretation of taxation laws. A draft ruling is not intended to be a ruling or advice in terms of section 105-60 of Schedule 1 to the *Taxation Administration Act 1953* (TAA). It is only when a ruling has been finalised and officially released as a Public Ruling that it may be relied upon by any entity to which it applies.
4. In the environment of implementing a new GST system where entities and those who design their systems require certainty about the ATO view on all the critical issues, drafts of rulings do not provide the necessary level of certainty.
5. To give the business community the certainty it needs, the Commissioner has announced¹ that taxpayers can rely on any GST Public Ruling on issue as a draft at 30 June 2000.

¹ In a speech titled "**The heat is on**" presented to Freehills and Australian Council of Business Women Luncheon on 9 June 2000.

STATEMENT

The scope of protection

6. GST Public Rulings that issued as drafts before 1 July 2000 but were not finalised before that date will be given the status of a ruling or advice for the purpose of section 105-60 of Schedule 1 to the TAA until the final ruling is issued. These rulings, although issued as drafts, are intended to be relied upon. The preamble to the drafts have been amended accordingly.
7. This means that entities acting on the draft rulings are given the same protection as those entities relying on a final Public Ruling. Accordingly, entities will not have to pay any additional GST they might otherwise be called upon to pay in the event there is a change in our interpretation of the law in the final ruling. Similarly, they will not be required to repay an amount overpaid by the ATO as a refund in these circumstances.
8. This protection does not apply to draft rulings that are issued on or after 1 July 2000. Those documents are not intended to be relied upon as public rulings and will have the normal status of drafts and their preamble will reflect this.

Further concession

9. It is recognised that there may be cases where taxpayers have relied upon a draft of a GST Public Ruling in setting up their business systems in readiness for the start of GST. Where there has been a change in the ATO view, taxpayers may require time to alter their systems to comply with the change.
10. As a further administrative concession in these cases, where a Public Ruling has issued as a draft before 1 July 2000 and there are material difficulties affecting the taxpayer's ability to implement the necessary systems changes, the Commissioner will, on a case by case basis, determine an application date of effect that allows an appropriate time to implement the changes.

Amendment history

Date of amendment	Part	Comment
10 May 2011	Contact details	Updated.
15 September 2009	Contact details	Updated.
13 January 2008	Contact details	Updated.
1 July 2006	Various	Update references to section 37 of the TAA to section 105-60 of Schedule 1 to the TAA.

<i>subject references:</i>	draft GST rulings, GST rulings
<i>legislative references:</i>	TAA 1953 105-60 of Schedule 1
<i>related public rulings:</i>	GSTR 1999/1
<i>file references:</i>	2000/12261

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