

TGR 92/1 - Training guarantee: public rulings



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Training Guarantee Ruling

Training guarantee: public rulings

Training Guarantee Rulings do not have the force of law. Each decision made by the Australian Taxation Office is made on the merits of each individual case having regard to any relevant Ruling.

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What this Ruling is about

1. This Ruling outlines the system of public rulings we are introducing for the *Training Guarantee (Administration) Act 1990* (the TGAA).
2. In relation to public rulings, this Ruling considers:
 - (i) why we publish rulings, and on what issues;
 - (ii) the status of public rulings;
 - (iii) withdrawal of public rulings;
 - (iv) the date of effect of public rulings;
 - (v) the use of exposure draft rulings; and
 - (vi) the numbering of the ruling.

Why we publish Rulings and on what issues

3. The Rulings will be published to provide technical guidance for both the public and our own staff on matters of policy, procedural instruction and interpretation of key areas of the training guarantee laws.
4. We want to effectively communicate our views on grey areas of the TGAA which affect large numbers of employers. TGAA issues may arise which require a focused examination, and these are better dealt with by a formal Ruling rather than general commentary in an information booklet.
5. The Australian Taxation Office (ATO) makes known its view about the training guarantee law in a number of ways, such as information booklets, media releases, speeches and presentations by senior officers and various publications from time to time. A prime

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document is the booklet titled *The Training Guarantee - Your Questions Answered*, which was first published in 1990, and of which a revised edition will issue in late 1992. A quarterly magazine *TG News* is also used to send out our views.

6. We recognise the right, and need for, public scrutiny on the positions we adopt in our administration of the law.

Status of public rulings

7. *The Taxation Laws Amendment (Self Assessment) Act 1992* does not apply to the TGAA. Therefore Training Guarantee Rulings do not have the force of law and are not binding. However, the basic administrative policy of the ATO is to stand by what is said in a Ruling and to depart from a ruling only in extreme circumstances where there are very substantial reasons for doing so. Any departure would be confined to situations where:

- (a) there have been legislative changes;
- (b) an applicable Tribunal or Court overturns or modifies an interpretation of the law;
- (c) the approach adopted in a Ruling is for other stated reasons no longer considered appropriate.

8. While Rulings are provided to assist in the interpretation of the law they may be overruled by amendment to the law or by subsequent decisions of appellate tribunals.

Withdrawal of public rulings

9. The Commissioner may withdraw either the whole or part of a public ruling. However, arrangements which had been entered into on the basis of a Ruling before its withdrawal, will not be affected.

Date of effect of public rulings

10. Public rulings generally apply to past, present and future arrangements. However, if a public ruling states that it only applies to arrangements which commenced after a specified date, then it only applies from that date. This may occur if the public ruling applies to a new provision in the law, or if the Commissioner considers that it would be unfair to apply a public ruling to arrangements commenced

before the ruling is made, even though there has not been an earlier public ruling on the matter.

The use of Draft Rulings

11. In the interests of proper consultation and to enhance the quality of a Ruling we will, in most instances, first issue a Draft Ruling on the subject and allow six weeks for comments.

12. A Draft Ruling will represent the preliminary, though considered, views of the ATO. A Draft Ruling may not be relied on. It is only final Training Guarantee Rulings which represent authoritative statements on the particular matter covered in the Ruling.

The numbering of public rulings

13. The numbering system will be consistent with the revised system introduced for Taxation Rulings.

14. The series will be titled the TGR series. Each Ruling will have a prefix for the particular calendar year in which the Ruling issued. For example Rulings issued in 1992 will have the prefix TGR 92/.

15. Draft Rulings will be clearly labelled as such and be further identified by the letter D preceding the number. For example TGR 92/D100.

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- withdrawal of Training Guarantee Rulings

legislative references

- TGAA Pt 5