


TD 2005/2A1 - Addendum - Income tax: does a resident of a country with which Australia has a Tax Treaty, have a permanent establishment solely from the sale of trading stock through an internet website hosted by an Australian resident internet service provider?

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Addendum

Taxation Determination

Income tax: does a resident of a country with which Australia has a Tax Treaty, have a permanent establishment solely from the sale of trading stock through an internet website hosted by an Australian resident internet service provider?

This Addendum amends Taxation Determination TD 2005/2 to reflect the changes to the law caused by the repeal of inoperative provisions.

TD 2005/2 is amended as follows:

1. Paragraph 3

Omit the third sentence.

2. Footnote 4

After 'on Capital'; insert '(July 2010)'.

3. Footnote 6

Omit the footnote; substitute:

⁶ See Article 4 of the Singapore Agreement and Article 5 of the French Agreement, Schedule 5 and 11 of the *International Tax Agreements Act 1953* (Agreements Act); Article 5 of the Japanese Agreement at Schedule 6 of the Agreements Act.

4. Footnote 7

Omit the footnote; substitute:

⁷ Article 4(1) of the Singapore Agreement and Article 5(1) of the French Agreement, Schedule 5 and 11 of the Agreements Act; Article 5(1) of the Japanese Agreement, Schedule 6 of the Agreements Act.

5. Footnote 12

Omit the footnote; substitute:

¹² Article 4(2) of the Singapore Agreement and Article 5(2) of the French Agreement, Schedule 5 and 11 of the Agreements Act; Article 5(2) of the Japanese Agreement, Schedule 6 of the Agreements Act.

6. Footnote 14

(a) Omit 'Article 3(5) of the Japanese Agreement'; substitute 'Article 5(7) of the Japanese Agreement'.

(b) Omit 'Article 4(5) of the French Agreement'; substitute 'Article 5(6) of the French Agreement'.

7. Footnote 16

(a) Omit 'Article 3(6) of the Japanese Agreement'; substitute 'Article 5(8) of the Japanese Agreement'.

(b) Omit 'Article 4(6) of the French Agreement'; substitute 'Article 5(7) of the French Agreement'.

8. Legislative references

Omit:

- International Tax Agreements Act 1936 38
- International Tax Agreements Act 1936 39
- International Tax Agreements Act 1936 40
- International Tax Agreements Act 1936 41
- International Tax Agreements Act 1936 42
- International Tax Agreements Act 1936 43
- International Tax Agreements Act 1997 6-5(3)

Insert:

- Income Tax Assessment Act 1997 6-5(3)
- International Tax Agreements Act 1953 Sch 48
- International Tax Agreements Act 1953 Sch 49

9. Other references

Omit 'OECD Model Tax Convention on Income and on Capital January 2003 Condensed version'; substitute 'OECD Model Tax Convention on Income and on Capital July 2010 Condensed version'.

This Addendum applies on and from 14 September 2006.

ATO references

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ATOlaw topic: Income Tax ~~ Assessable income ~~ business and professional income – foreign sourced