



TD 96/5 - Income tax: self assessment: can a person (the attorney) acting within the terms of a general power of attorney validly apply on behalf of the grantor of the power of attorney (the principal) for a private ruling on the way in which a tax law or tax laws will apply to the principal?

 This cover sheet is provided for information only. It does not form part of *TD 96/5 - Income tax: self assessment: can a person (the attorney) acting within the terms of a general power of attorney validly apply on behalf of the grantor of the power of attorney (the principal) for a private ruling on the way in which a tax law or tax laws will apply to the principal?*

 This document has changed over time. This is a consolidated version of the ruling which was published on 17 January 1996

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, this Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Taxation Determination

Income tax: self assessment: can a person (the attorney) acting within the terms of a general power of attorney validly apply on behalf of the grantor of the power of attorney (the principal) for a private ruling on the way in which a tax law or tax laws will apply to the principal?

1. Yes.
2. A power of attorney given by one person to another empowers the attorney to represent, or to act in place of the principal for certain purposes. The power of attorney can be general or specific.
3. A general power of attorney confers on the attorney the authority to do, on behalf of the principal, anything that the principal can lawfully do by an attorney. An attorney, acting under the authority of a general power of attorney, can apply, in accordance with section 14ZAF of the *Taxation Administration Act 1953* (TAA), for a private ruling on the way in which a tax law or tax laws will apply to the principal.
4. Section 14ZAG of the TAA allows a person, with the written consent of another person, to apply for a private ruling on behalf of that other person. A general power of attorney is more than written consent to apply for a ruling. It allows the attorney to act in the place of the principal and, therefore, enables the attorney to apply for a private ruling as if he or she is the person to whom the ruling relates. Consequently, a general attorney, requesting a private ruling on the way in which a tax law or tax laws relate to the principal, will not have to obtain the written consent of the principal to apply for the ruling. However, the attorney will need to advise, with the application, that the power of attorney exists and that the document is available for examination by the Commissioner if required.
5. A specific power of attorney will not usually enable the attorney to validly apply for a private ruling on behalf of the principal. For a specific power of attorney to have the same effect, for private rulings purposes, as a general power of attorney, it would need to empower the attorney to act in place of the principal in applying for a private ruling. For example, a specific power to act in place of the principal 'for all taxation affairs' would cover applying for a private ruling.

Commissioner of Taxation17 January 1996

FOI INDEX DETAIL: Reference No. I 1014826

Previously issued as Draft TD 95/D22

Related Determinations:

Related Rulings:

Subject Ref: power of attorney; private rulings

Legislative Ref: TAA 14ZAF; TAA 14ZAG

Case Ref:

ATO Ref: NAT 95/8802-7; D/95/950001

ISSN 1038 - 8982