


# ***TR 2000/8A - Addendum - Income tax: investment schemes***

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# Addendum

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## Taxation Ruling

### Income tax: investment schemes

This Addendum amends Taxation Ruling TR 2000/8 to reflect the decisions of the Full Federal Court in *Federal Commissioner of Taxation v. Cooke* [2004] FCAFC 75; 2004 ATC 4268; (2004) 55 ATR 183 and *Federal Commissioner of Taxation v. Sleight* [2004] FCAFC 94; 2004 ATC 4477; (2004) 55 ATR 555.

#### Taxation Ruling TR 2000/8 is amended as follows:

##### 1. Paragraph 36

a) Insert footnote reference 5a at the end of the first dot point with the content of the footnote being:

<sup>5a</sup> However, see the decisions in *Federal Commissioner of Taxation v. Cooke* [2004] FCAFC 75; 2004 ATC 4268 [*Cooke*] and *Federal Commissioner of Taxation v. Sleight* [2004] FCAFC 94; 2004 ATC 4477 [*Sleight*] where, on the facts of each case, the method used in the pooling of the produce was not detrimental to the finding that participants were carrying on a business.

b) Insert footnote reference 5b at the end of the second dot point with the content of the footnote being:

<sup>5b</sup> However, see the decision in *Cooke* where, on the facts of the case, this feature was not detrimental to the finding that participants were carrying on a business.

##### 2. Paragraph 43

Insert footnote reference 5c at the end of paragraph 43 with the content of the footnote being:

<sup>5c</sup> However, see the decisions in *Cooke* and *Sleight*, where it was determined on the facts of each case that business operations commenced upon the signing of the application form.

##### 3. Paragraph 96

Insert footnote reference 8a at the end of paragraph 96 with the content of the footnote being:

<sup>8a</sup> See footnote 5a.

## 4. Paragraph 106

a) Insert footnote reference 9a at the end of the first dot point with the content of the footnote being:

<sup>9a</sup> See footnote 5a.

b) Insert footnote reference 9b at the end of the second dot point with the content of the footnote being:

<sup>9b</sup> See footnote 5b.

## 5. Paragraph 121

Insert footnote reference 9c at the end of paragraph 117 with the content of the footnote being:

<sup>9c</sup> See footnote 5c.

## 6. Paragraph 191

Insert footnote reference 12a at the end of paragraph 191 with the content of the footnote being:

<sup>12a</sup> Support for this can be found in the decision in *Sleight*, for example Hill J's comments at paragraphs 78, 80, 82 and 94.

## 7. Paragraph 194

Insert footnote reference 12b at the end of paragraph 194 with the content of the footnote being:

<sup>12b</sup> See for example, Hill J's comments in *Sleight* at paragraph 78 that the presence of a round robin financing arrangement in that case did not affect the genuineness of the transaction, but may indicate its purpose.

## 8. Paragraph 224

Insert footnote reference 12c at the end of paragraph 224 with the content of the footnote being:

<sup>12c</sup> See footnote 5c.

## 9. Case references

Insert the following after paragraph 235 under the heading *Case references*:

- Federal Commissioner of Taxation v. Cooke [2004] FCAFC 75; (2004) 2004 ATC 4268; (2004) 55 ATR 183
- Federal Commissioner of Taxation v. Sleight [2004] FCAFC 94; (2004) 2004 ATC 4477; (2004) 55 ATR 555

This Addendum applies on and from 11 January 2006.

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**Commissioner of Taxation**

11 January 2006

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ATO references

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