

TR 2006/10A7 - Addendum - Public Rulings

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Addendum

Taxation Ruling Public Rulings

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Taxation Ruling TR 2006/10 *Public Rulings* to address recent developments in case law and reflect legislative changes to promoter penalty laws in Division 290 of Schedule 1 to the *Taxation Administration Act 1953*.

TR 2006/10 is amended as follows:

1. Title

Omit 'Rulings'; substitute 'rulings'.

2. Paragraph 1

(a) Omit 'Government's'; substitute 'government's'.

(b) After '*Report on Aspects of Income Tax Self Assessment (ROSA Report)*.' insert new footnote A1:

^{A1} Treasury (2004) *Report on Aspects of Income Tax Self Assessment*, <https://treasury.gov.au/publication/p2004-aspects-income-tax-self-assessment>.

(c) Omit 'All legislative references in this Ruling are to Schedule 1 to the TAA, unless otherwise indicated.'

3. Paragraph 1A

(a) After 'following the enactment of', insert 'the'.

(b) Omit 'Government's'; substitute 'government's'.

(c) Omit '*Administration of the GST*'; substitute '*Administration of the Goods and Services Tax*^{A2}'.

(d) After '*Goods and Services Tax*' insert new footnote A2:

^{A2} The Board of Taxation (2008) *Review of the Legal Framework for the Administration of the Goods and Services Tax*, <https://taxboard.gov.au/consultation/legal-framework-for-the-administration-of-the-gst>.

4. Paragraph 2

(a) Omit the list points; substitute:

- (i) what constitutes a public ruling;
- (ii) the types of public rulings the ATO publishes;

- (iii) the status and binding effect of public rulings;
 - (iv) the status and binding effect of formal rulings which are not public rulings;
 - (v) the status of draft public rulings;
 - (vi) the relevance of public rulings to whether a taxpayer has a reasonably arguable position in regard to income tax, minimum tax and petroleum resource rent tax matters for the purposes of certain penalty provisions;
 - (vii) public rulings and the promoter penalty laws;
 - (viii) the withdrawal of public rulings;
 - (ix) the status of public rulings following a rewrite of the law;
 - (x) the effect of inconsistent rulings;
 - (xi) the effect of misleading rulings; and
 - (xii) the date of effect of public rulings.
- (b) After the paragraph, insert new paragraph 2A:
- 2A. All further legislative references in this Ruling are to Schedule 1 to the TAA, unless otherwise indicated.

5. Paragraph 3

Omit the wording of the paragraph; substitute:

Taxation Rulings TR 92/1 *Income tax and fringe benefits tax: public rulings*, TR 92/20 *Income and other taxes: guidelines on the use of date of effect paragraphs in Taxation Rulings and Taxation Determinations*, TR 97/16 *Income tax: status of taxation rulings following the income tax law rewrite* and Product Grants and Benefits Ruling PGBR 2003/1 *Product grants and benefits: public rulings* were withdrawn on and from 5 April 2006. To the extent that the Commissioner's views in those Rulings apply in respect of the new provisions, they have been incorporated into this Ruling.

6. Paragraph 3A

- (a) After 'GSTR 1999/1', insert '*Goods and services tax: the GST rulings system*'.
- (b) After 'WETR 2002/1', insert '*Wine equalisation tax: the WET rulings system*'.
- (c) Omit 'of the TAA'.

7. Paragraph 5

- (a) Omit 'of Schedule 1 to the TAA'.
- (b) After 'Where appropriate', insert a comma.

8. Paragraph 7

After '*in preparing her own tax return*', insert a comma.

9. Paragraph 8

After 'in the example in paragraph 7', insert 'of this Ruling'.

10. Paragraph 8A

After 'TR 2006/11', insert 'Private rulings'.

11. Paragraph 10

- (a) Omit 'Generally a ruling will identify the relevant provisions. However, in certain publications declared to be public rulings, this may not be practical.'; substitute 'A ruling will identify the relevant provisions.'
- (b) In footnote 6, after '2008/3', insert 'Provision of advice and guidance by the ATO'.

12. Paragraph 11

Omit the wording of the paragraph; substitute:

The Commissioner can issue rulings only on relevant provisions. Relevant provisions are provisions of Acts and regulations administered by the Commissioner that are about any of the matters listed in section 357-55.

13. Paragraph 12

- (a) Omit 'of Schedule 1 to the TAA'.
- (b) In footnote 7, omit 'of Schedule 1 to the TAA'.
- (c) In footnote 8, omit 'of Schedule 1 to the TAA'.
- (d) After the second instance of 'Therefore', insert a comma.
- (e) In footnote 9, omit 'of Schedule 1 to the TAA'.

14. Paragraph 13

- (a) In footnote 10, after 'section 14ZAAE of', insert 'the'.
- (b) In footnote 11, after 'section 14ZAAD of', insert 'the'.

15. Paragraph 14

- (a) Omit 'of Schedule 1 to the TAA'.
- (b) Omit the wording of footnote 13; substitute:

Delbridge, A (ed) and ors (2001) *The Macquarie Dictionary*, rev. 3rd edn, The Macquarie Library Pty Ltd, North Ryde and Moore, B (ed) (1999) *Australian Oxford Dictionary*, Oxford University Press, Melbourne.

16. Paragraph 15

- (a) After 'entitlement to the', omit 'listed'.

- (b) After 'levies and entitlements', insert 'listed in section 357-55'.

17. Paragraph 16A

- (a) Omit 'relevant provision has'; substitute 'relevant provision contains'.
- (b) After 'for example', insert a comma.
- (c) After 'actual exercise of the discretion', insert a comma.

18. Paragraph 16B

- (a) Omit the wording of the paragraph; substitute:

A public ruling can deal with any matter related to the application of a provision.^{13AAA} Therefore, the Commissioner may increase the practical utility of public rulings by dealing with related administrative matters on the way a provision applies, including issues relating to 'liability, administration, procedure, collection, and ultimate conclusions of fact'.^{13A} As a matter of practice, matters relating to administration, procedures and collection would usually be set out as an appendix in a public ruling or a Practical Compliance Guideline.

- (b) After 'application of a provision.', insert new footnote 13AAA:

^{13AAA} Subsection 358-5(2).

19. Paragraph 16C

Omit the paragraph, including footnote 13AA.

20. Paragraph 16D

After 'relevant provision', insert a comma.

21. Paragraph 16E

- (a) Omit all instances of 'of Schedule 1 to the TAA'.
- (b) After 'So', insert a comma.

22. Paragraph 17

- (a) In footnote 14, omit 'of Schedule 1 to the TAA'.
- (b) In footnote 15, omit 'of Schedule 1 to the TAA'.

23. Paragraph 18

Omit 'website (<http://ato.gov.au/law>)'; substitute '[Legal database](#)'.

24. Paragraph 19

- (a) Omit the wording of the paragraph; substitute:

The Commissioner must also, by notifiable instrument, publish notice of the making of a public ruling.¹⁶ However, if the Commissioner issues a public ruling but fails to publish notice of the making of that public ruling, an entity to whom it applies may nevertheless rely on the ruling and it will bind the Commissioner.¹⁷

- (b) In footnote 16, omit 'of Schedule 1 to the TAA'.

25. Paragraph 20

- (a) Omit 'of Schedule 1 to the TAA'.

- (b) Omit 'The purpose of section 357-90 is illustrated by the 'failure to gazette' example in paragraph 3.35 of the Explanatory Memorandum to the Tax Laws Amendment (Improvements to Self Assessment) Bill (No. 2) 2005.'

26. Paragraph 21

- (a) Omit both instances 'of Schedule 1 to the TAA'.
- (b) Omit 'under the former'; substitute 'under former'.
- (c) After 'Therefore', insert a comma.
- (d) Omit 'two'; substitute '2'.
- (e) After 'about inconsistencies', insert a comma.

27. Paragraph 21A

- (a) Omit the wording of the paragraph; substitute:

An indirect tax ruling in force immediately before 1 July 2010 under section 105-60 that is labelled as a public ruling or was described as a public ruling in its publication notice in the *Gazette* is treated from 1 July 2010 as if it were a public ruling under Division 358.^{18A} This means that indirect tax rulings that the Commissioner published before 1 July 2010 in the formal public rulings series are treated as public rulings under Division 358. Certain documents containing advice on the application of indirect tax laws published on the ATO website before 1 July 2010 were also labelled as public rulings from 1 July 2010, with the same effect.

- (b) In footnote 18A, after 'was repealed by', insert 'the'.

28. Paragraph 22

Omit the list points; substitute:

- Taxation Ruling series (TR series);
- Taxation Determination series (TD series);
- Law Companion Ruling series (LCR series);
- Class Ruling series (CR series);

- Product Ruling series (PR series);
- Product Grants and Benefits Ruling series (PGBR series);
- Excise Ruling series (ER series);
- Excise Determination series (ED series);
- Fuel Tax Ruling series (FTR series);
- Fuel Tax Determination series (FTD series);
- Goods and Services Tax Ruling series (GSTR series);
- Goods and Services Tax Determination series (GSTD series);
- Miscellaneous Tax Ruling (MT series) that are labelled as ‘legally binding’;
- Wine Equalisation Tax Ruling series (WETR series);
- Wine Equalisation Tax Determination series (WETD series); and
- Luxury Car Tax Determination series (LCTD series).

29. Paragraph 23

(a) Omit the wording of the paragraph; substitute:

In addition, there are other formal rulings issued by the ATO which do not meet the criteria for binding public rulings. Principally, these are:

- Income Tax series (IT series) of rulings (that is, formal rulings issued before 1 July 1992);
- most of the Miscellaneous Taxation series (MT series) issued prior to 1 January 2006;
- Superannuation Guarantee Ruling series (SGR series);
- Superannuation Guarantee Determination series (SGR series);
- Self Managed Superannuation Funds Ruling series (SMSFR series);
- Self Managed Superannuation Funds Determination series (SMSFR series); and
- Superannuation Determination series (SD series).

(b) After the list points, insert new paragraph 23AA:

23AA. These formal rulings are not public rulings for the purposes of the public rulings provisions. In relation to the IT series, prior to 1992, the rulings generated were not binding. For the other series listed in paragraph 23 of this Ruling, the Commissioner is unable to rule on the matters covered. However, the Commissioner considers all series to be administratively binding on the ATO.

30. Paragraph 23A

Omit the wording of the paragraph; substitute:

A law companion ruling expresses the Commissioner’s view on how recently enacted law applies to a class of taxpayers, or to taxpayers generally. Typically, a

law companion ruling will be published as soon as practicable after a Bill receives Royal Assent in order to provide early advice. Law Companion Ruling LCR 2015/1 *Law companion rulings: purpose, nature and role in ATO's public advice and guidance* further explains the purpose and nature of law companion rulings, and their role in the ATO's public advice and guidance framework.

31. Paragraph 24

- (a) Omit '*E-tax and myTax*'; substitute '*myTax*'.
- (b) In footnote 19, after 'PS LA 1998/1', insert '*Law administration practice statements*'.

32. Paragraph 26

- (a) At the end of the paragraph, insert 'As with all public rulings under Division 358, the Commissioner must, by notifiable instrument, publish notice of such a document as a public ruling.^{19A}'.
- (b) At the end of the paragraph, insert new footnote 19A:

^{19A} See subsection 358-5(4).

33. Paragraph 28

Omit 'administration of that provision..'; substitute 'administration of that provision.'.

34. Paragraph 30

- (a) In footnote 20, omit 'of Schedule 1 to the TAA'.
- (b) At the end of the paragraph, insert:

An entity will not be considered to have relied on a public ruling if they undertake actions in accordance with a public ruling, but also undertake other actions that materially change the overall form, effect or outcome from what was set out in the ruling.^{20A}

- (c) At the end of the paragraph, insert new footnote 20A:

^{20A} See *Aitken v Commissioner of Taxation* [2025] FCA 372 at [164] and [172].

35. Paragraph 31

In footnote 21, omit 'of Schedule 1 to the TAA'.

36. Paragraph 32

In footnote 22, omit 'of Schedule 1 to the TAA'.

37. Paragraph 35

After 'such outgoings,', omit 'then'.

38. Paragraph 36A

In footnote 22B, omit 'of Schedule 1 to the TAA'.

39. Paragraph 37

In footnote 23, omit 'of Schedule 1 to the TAA'.

40. Paragraph 39

(a) Omit footnote 26.

(b) After the paragraph, insert new paragraphs 39A to 39C, including heading:

The status of draft public rulings

39A. A published draft public ruling is not a ruling and is not legally binding on the Commissioner. It is a consultative document which sets out the Commissioner's preliminary view about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities, in relation to a defined scheme or class of schemes.

39B. Unless otherwise stated in the document, reliance on a statement in a current draft ruling^{26AA} provides the same level of protection as written guidance which means that although it is not legally binding, the Commissioner will stand by it unless there are good and substantial reasons to depart from it.^{26AB}

39C. Where a draft ruling sets out a view on how a relevant provision applies, and that view represents the Commissioner's general administrative practice^{26AC}, that can affect the commencement date of the final ruling. In such a case, if the final public ruling (other than an indirect tax or excise ruling) takes a position that is less favourable to the taxpayer than the draft ruling, the view of the law taken in the final ruling can only be applied to schemes begun to be carried out after the final ruling is published.^{26AD}

(c) In new paragraph 39B, after 'statement in a current draft ruling', insert new footnote 26AA:

^{26AA} Refer to PS LA 2008/3.

(d) At the end of new paragraph 39B, insert new footnote 26AB:

^{26AB} See paragraph 39A of this Ruling.

(e) In new paragraph 39C, after 'general administrative practice', insert new footnote 26AC:

^{26AC} See Taxation Determination TD 2011/19 *Tax administration: what is a general administrative practice for the purposes of protection from administrative penalties and interest charges?*

(f) At the end of new paragraph 39C, insert new footnote 26AD:

^{26AD} Subsection 358-10(2). From 1 July 2010, the Commissioner may revise an indirect tax or excise ruling at any time, whether or not the relevant scheme or tax period has commenced: see subsection 357-75(1).

41. Paragraph 40

- (a) In the heading, omit '**income tax and PRRT matters**'; substitute '**income tax, minimum tax and petroleum resource rent tax matters**'.
- (b) Omit 'of Schedule 1 to the TAA'.
- (c) Omit 'and PRRT'; substitute ', minimum tax and petroleum resource rent tax (PRRT)'.

42. Paragraph 41

- (a) Omit 'of Schedule 1 to the TAA'.
- (b) In footnote 27, omit 'of Schedule 1 to the TAA'.
- (c) In footnote 27A, after 'MT 2008/2', insert '*Shortfall penalties: administrative penalty for taking a position that is not reasonably arguable*'.

43. Paragraph 42

- (a) Omit the wording of footnote 28; substitute:

²⁸ This Explanatory Memorandum refers to the old provision of section 222C of the ITAA 1936, which was replaced with an equivalent provision in section 284-15.

- (b) After the paragraph, insert new paragraph 42A, including heading:

Public rulings and the promoter penalty laws

42A. Schemes may have been promoted, or promoted and implemented on the basis of conformity with a public ruling. Where such a scheme materially differs from what is described in the ruling, the Commissioner may apply the promoter penalty laws.^{28A} Where applicable, the Commissioner may apply to the Federal Court for sanctions or remedies (or both) to address this conduct.^{28B}

- (c) In new paragraph 42A, after 'promoter penalty laws.', insert new footnote 28A:

^{28A} Division 290.

- (d) At the end of new paragraph 42A, insert new footnote 28B:

^{28B} See PS LA 2021/1 *Application of the promoter penalty laws*, which sets out the administrative procedures that will be used in applying the promoter penalties laws.

44. Paragraph 43

In footnote 29, omit both instances of 'of Schedule 1 to the TAA'.

45. Paragraph 44

- (a) Omit the wording of the paragraph; substitute:

The Commissioner may, by notifiable instrument, withdraw a public ruling, either wholly or to an extent.³⁰ If the Commissioner fails to publish a notice of withdrawal by notifiable instrument, the public ruling continues to apply until it is effectively

withdrawn. In other words, all formalities must be complied with in order for the withdrawal of a public ruling to be effective.

- (b) Omit the wording of footnote 30; substitute 'Subsection 358-20(1)'.

46. Paragraph 45

- (a) Omit the wording of the paragraph; substitute:

The withdrawal takes effect from the time specified in the notifiable instrument. That time must not be before the day after the instrument is registered on the Federal Register of Legislation under the *Legislation Act 2003*.³¹

- (b) In footnote 31, omit 'of Schedule 1 to the TAA'.

47. Paragraph 46

- (a) In footnote 32, omit 'of Schedule 1 to the TAA'.

- (b) Omit the wording of footnote 33; substitute 'Section 357-80.'.

48. Paragraph 47

Omit the wording of footnote 36; substitute 'Subsection 358-20(2)'.

49. Paragraph 49

In footnote 37, omit 'of Schedule 1 to the TAA'.

50. Paragraph 52

Omit 'of Schedule 1 to the TAA'.

51. Paragraph 53

- (a) Omit 'later ruling: see'; substitute 'later ruling: see'.

- (b) After 'Similarly', insert a comma.

- (c) Omit 'two'; substitute '2'.

52. Paragraph 54

After 'However', insert a comma.

53. Paragraph 55

Omit 'two'; substitute '2'.

54. Paragraph 57

- (a) Omit 'three'; substitute '3'.

- (b) Omit 'two'; substitute '2'.

55. Paragraph 58

In footnote 38, after 'Schedule 2 of', insert 'the'.

56. Paragraph 58A

- (a) Omit 'two'; substitute '2'.
(b) In footnote 38A, omit 'of Schedule 1 to the TAA'.

57. Paragraph 58B

- (a) Omit 'two'; substitute '2'.
(b) In footnote 38B, omit 'of Schedule 1 to the TAA'.

58. Paragraph 58C

- (a) Omit 'three'; substitute '3'.
(b) Omit 'two'; substitute '2'.

59. Paragraph 59

In footnote 39, omit 'of Schedule 1 to the TAA'.

60. Paragraph 60

Omit 'ruling. The'; substitute 'ruling. The'.

61. Paragraph 61

After 'Generally', insert a comma.

62. Paragraph 62

- (a) After 'For example', insert a comma.
(b) Omit '*Matters the Commissioner considers when determining whether the Australian Taxation Office (ATO) view of the law should only be applied prospectively*'; substitute '*Determining whether the ATO's views of the law should be applied prospectively only*'.

63. Paragraph 70

- (a) In footnote 40, omit 'of Schedule 1 to the TAA'.
(b) After '2011/19', insert '*Tax administration: what is a general administrative practice for the purposes of protection from administrative penalties and interest charges?*'.

64. Paragraph 75

Omit the wording of the paragraph; substitute:

A public ruling that covers an issue which was part of a settlement between an entity and the ATO will not apply to the entity in relation to that issue for the periods which were the subject of the settlement. If the ruling is intended to apply to the issue covered by a settlement (in the period the subject of the settlement), the ruling will state the extent to which it will apply.

65. Paragraph 76

In the list points, omit both instances of 'terms: the'; substitute 'terms: the.

66. Detailed contents list

Omit Detailed contents list; substitute:

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This Addendum applies from both before and after its date of issue.

Commissioner of Taxation

26 November 2025

ATO references

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