


TR 92/5ER - Erratum - Income tax: gold loans and forward sales agreements

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TAXATION RULING TR 92/5

*This Erratum and Addendum is a public ruling for the purpose of Part IVAAA of the **Taxation Administration Act 1953***

This public ruling alters Taxation Ruling TR 92/5 as set out below.

ERRATA

1. Paragraph 11 should be amended by replacing the words:

'deductible at the spot market value of the gold at the time of payment'
at the end of the second sentence with:

'taken into account by reducing the value of the trading stock'.
2. Paragraph 13 should be amended by omitting the words:

'However, gold fees paid after 1 January 1991 will not be deductible where they relate to loans drawn before 1 January 1991.'
3. Paragraph 26 should be amended by replacing the words:

'allowable as a deduction at the spot price of gold at the date for payment' at the end of the second to last sentence with:

'taken into account by reducing the value of the trading stock'.
4. Paragraph 32 should be amended by:
 - (a) adding the words ',in effect,' after the phrase 'The expense will be' in the second sentence; and
 - (b) replacing the words:

'spot market value of the gold paid at the time' at the end of the second sentence with:
'value of the reduction in the payer's trading stock'.
5. Paragraph 33 should be amended by replacing the last two sentences with:

'And the trading stock of the producer/borrower is reduced accordingly, giving the applicable deduction against that income'.

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6. Paragraph 34 should be amended by replacing the words:

'paragraph 4'

with:

'paragraphs 3 and 4'

DATE OF EFFECT

7. If a taxpayer:

- (a) has entered into a gold loan contract or a transaction under such a contract in the period between the date of issue of TR 92/5 and the date of issue of this Erratum; and
- (b) would be adversely effected by the amendments set out in paragraphs 1, 3 and 4 above;

then the Ruling will apply to those contracts or transactions as if the amendments had not been made.

8. The amendments set out in paragraphs 2, 5 and 6 above, to the extent that they are beneficial to taxpayers, will apply to all contracts and transactions regardless of whether they were entered into before or after the date of issue of this erratum. To the extent that the amendments in those paragraphs are not beneficial to taxpayers, the original paragraphs will apply as if the amendments had not been made.

EXPLANATION

9. Taxation Ruling TR 92/5 considers gold loans, from the viewpoint of gold producers, to involve a series of acquisitions (by purchase or production) and disposals of trading stock.

10. Some phrases included in the Ruling suggested that the deduction, by way of reduction in trading stock on hand, for gold fees was necessarily at spot price of gold at the time of payment. This will only be correct when that is the value that has been adopted for trading stock purposes. When a lower value has been adopted, the reduction in trading stock is, of course, at that lower value.

11. Gold producers are not entitled to a greater deduction (by reduction of their trading stock on hand) than the value they have adopted for that trading stock, used to pay a gold fee. Commonly, gold producers have valued trading stock at market value; but lower values could also be used.

12. Of course, on any view, the deduction implied by the Ruling was limited to the stated spot price - there was no suggestion that both the spot price and a full deduction for reduction in value of trading stock were available.

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13. Paragraphs 13 and 33 of the Ruling stated that deductions were not available for payments after 1 January 1991 of gold fees for loans drawn down before 1 January 1991. This view is not correct. Such payments of gold fees involve disposals of trading stock; the appropriate adjustment to trading stock on hand is allowed (subject to the transitional rules for the taxation of gold producers).

COMMISSIONER OF TAXATION

17 September 1992