TR 94/5W - Income tax: tax shortfall penalties: reasonably arguable

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Notice of Withdrawal

Taxation Ruling

Income tax: tax shortfall penalties: reasonably arguable

Taxation Ruling TR 94/5 is withdrawn with effect from today.

1. TR 94/5 sets out the Commissioner's interpretation on what is meant by a reasonably arguable position in relation to the now repealed section 226K (relating to income tax shortfalls) of the former penalties regime contained in Part VII of the *Income Tax Assessment Act 1936* (ITAA 1936) and section 160ARZD of the ITAA 1936 (relating to franking tax shortfalls) of the former penalties regime contained in Division 11 of Part IIIAA of the ITAA 1936.

2. Part VII of the ITAA 1936 does not apply to statements made in relation the 2000-2001 and later income years and was replaced by Division 284 of Part 4-25 of Schedule 1 to the *Taxation Administration Act 1953* (TAA).

3. Division 11 of Part IIIAA of the ITAA 1936 does not apply to a return or information relating to the 2000-2001 and later franking years and was replaced in part by Division 284 of Part 4-25 of Schedule 1 to the TAA.

4. The administrative penalty regime within Part 4-25 of Schedule 1 to the TAA applies from 1 July 2000, in relation to:

- income tax matters for the 2000-01 and later income years;
- fringe benefits tax matters for the year commencing 1 April 2001 and later years; and
- matters relating to other taxes for the year commencing 1 July 2000 and later years.

5. The issues covered by TR 94/5 are now covered by Draft Miscellaneous Taxation Ruling MT 2008/D2, which issued today.

Commissioner of Taxation
14 May 2008

ATO references
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