


TR 97/2A2 - Addendum - Income tax: income tax concessions for members of the Australian Defence Force serving overseas

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Addendum

Taxation Ruling

Income tax: income tax concessions for members of the Australian Defence Force serving overseas

This Addendum amends Taxation Ruling TR 97/2 to reflect the rewritten provisions in section 51-5 of the *Income Tax Assessment Act 1997* and to correct a typographical error in a legislative reference.

TR 97/2 is amended as follows:

1. Paragraph 1

Omit '(the Act)'; substitute '(ITAA 1936)¹'.

2. Paragraph 3

Omit the last dot point; substitute:

- item 1.1 and 1.2 of the table contained in section 51-5 of the *Income Tax Assessment Act 1997* (ITAA 1997) which provides an income tax exemption for deployment allowances.

3. Paragraph 7

(a) Omit 'subparagraph 23(t)(iii)'; substitute 'item 1.1 and 1.2 of the table contained in section 51-5 of the ITAA 1997'.

(b) After 'section 79B'; insert 'of the ITAA 1936'.

(c) Omit the last dot point; substitute:

- an amendment to the Income Tax Regulations 1936 (the Regulations) for the purposes of section 23AD of the ITAA 1936.

4. Paragraph 8

After 'section 79B'; insert 'of the ITAA 1936'.

¹ All subsequent legislative references in this Ruling are to the ITAA 1936 unless indicated otherwise.

5. Paragraph 9

Omit the paragraph; substitute:

9. ADF personnel engaged in 'warlike' service may, provided the appropriate provision has been enacted or the regulation has been made, receive an exemption from income tax for their pay and allowances under either section 23AC or 23AD of the ITAA 1936. As explained above, section 23AD effectively replaces section 23AC for areas declared after 9 June 1993. Therefore, section 23AC will not normally be used for deployments after that date. Deployment allowances paid to ADF personnel engaged in this type of service are exempt from income tax if the deployment allowance is payable under a determination made under the *Defence Act 1903*.

6. Paragraph 12

Omit the paragraph; substitute:

12. Areas that have been declared to be overseas localities to which section 79B applies can be found by searching 'overseas forces tax offset – specified localities' on our website at www.ato.gov.au.

7. Paragraph 25

Omit the paragraph (including the heading).

8. Paragraph 37

Omit 'subsection 23AC(5)'; substitute 'subsection 23AD(5)'.

9. Paragraph 39

Omit the last sentence.

10. Paragraph 43

Omit the paragraph; substitute

43. Specified areas for the purpose of section 23AD are prescribed in regulation 71 of the Regulations.

11. Paragraph 48

Omit 'Subparagraph 23(t)(iii)'; substitute 'Item 1.1 and 1.2 of the table contained in section 51-5 of the ITAA 1997'.

12. Paragraph 49

Omit the paragraph; substitute:

49. By virtue of item 1.1 and 1.2 of the table contained in section 51-5 of the ITAA 1997 and regulation 51-5.01 of the Income Tax Assessment Regulations 1997. Deployment Allowances payable under a determination made under the *Defence Act 1903*, in respect of 'non-warlike' service, are exempt from tax. However, the pay earned by the ADF personnel remains taxable.

13. Tables 1, 2 and 3

Omit the tables (including headings).

14. Legislative references

Omit the references; substitute:

- ITAA 1936
- ITAA 1936 23AB
- ITAA 1936 23AC
- ITAA 1936 23AC(3)
- ITAA 1936 23AC(3)(c)
- ITAA 1936 23AC(3A)
- ITAA 1936 23AC(3A)(c)
- ITAA 1936 23AC(4)
- ITAA 1936 23AC(5)
- ITAA 1936 23AC(6)
- ITAA 1936 23AC(6)(a)
- ITAA 1936 23AC(6)(d)
- ITAA 1936 23AC(6D)
- ITAA 1936 23AC(7)
- ITAA 1936 23AC(7)(a)
- ITAA 1936 23AC(7)(b)
- ITAA 1936 23AD
- ITAA 1936 23AD(2)
- ITAA 1936 79A
- ITAA 1936 79B
- ITAA 1936 79B(2)(a)
- ITAA 1936 79B(2)(b)
- ITAA 1936 79B(3A)
- ITAA 1936 79B(5B)
- ITAA 1936 159J
- ITAA 1936 159K
- ITAA 1936 159L
- ITAA 1997 51-5
- TAA 1953 Pt IVA
- Defence Act 1903

This Addendum applies on and from 1 July 1997.

Commissioner of Taxation

7 July 2010

ATO references

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