


TR 98/3A - Addendum - Income tax: treatment of receipts for dealing with or disclosing mining, quarrying or prospecting information

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Addendum: Income tax: treatment of receipts for dealing with or disclosing mining, quarrying or prospecting information

*This document is not a public ruling for the purpose of Part IVAAA of the **Taxation Administration Act 1953** and is not legally binding on the Commissioner. However, it is administratively binding on the Commissioner. Taxation Rulings TR 92/1 and TR 97/16 together explain how a Ruling is legally or administratively binding.*

This Addendum amends Taxation Ruling TR 98/3 as follows:

1. Paragraphs 29 and 30

Delete paragraphs 29 and 30 and substitute:

'29. Mining, quarrying or prospecting information is not goodwill. It is separate and distinct from the goodwill of a mining business. It might be a source of the goodwill of the business but it is separate from the goodwill. Goodwill does not attach to mining, quarrying or prospecting information. Rather it attaches to the mining business which uses the information.

30. As the High Court explained in *FC of T v. Murry* 98 ATC 4585; (1998) 39 ATR 129, it is the legal definition of goodwill, rather than its accounting and business definitions, that applies for capital gains tax purposes. Goodwill has the meaning attributed to it by the High Court in that case. Unlike goodwill (which cannot be dealt with separately from the business with which it is associated) mining, quarrying or prospecting information can be and is often disclosed or dealt with independently of the mining tenement or any other asset of the mining business.'

2. Paragraph 87

Delete paragraph 87 and substitute:

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'87. The parties to a transaction involving the sale of a business should allocate discrete parts of the sale proceeds to the goodwill of the business and to the mining, quarrying or prospecting information. If the parties merely sell assets of a mining business (this is, something less than a discrete business) and disclose mining, quarrying or prospecting information, goodwill is not disposed of.'

Commissioner of Taxation

20 January 1999

[ATO Ref:](#) NO 97/8661-9

Case references

FC of T v. Murry 98 ATC 4585; (1998) 39 ATR 129

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