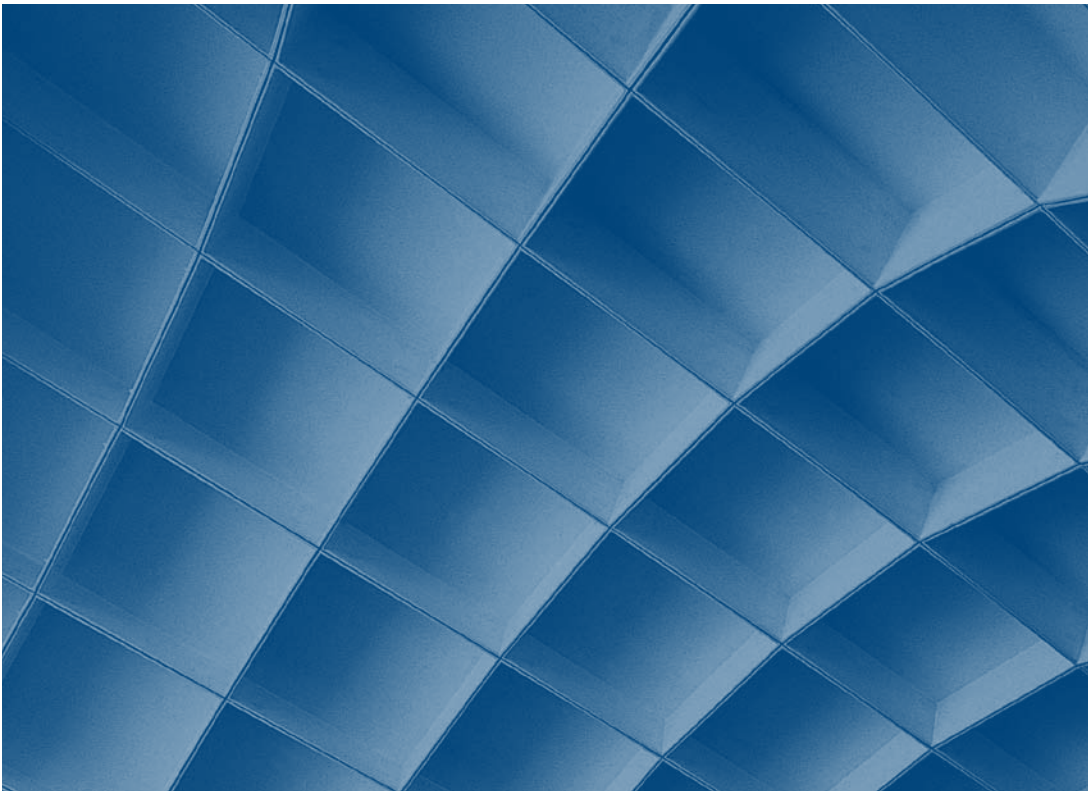




**Australian Government**  
**Australian Taxation Office**

# Taxpayers' charter

## Getting advice from the Tax Office



## **OUR COMMITMENT TO YOU**

We are committed to providing you with advice and information you can rely on.

If you feel this publication does not fully cover your circumstances, please seek help from the Tax Office or a professional adviser.

**The information in this publication is current at January 2007.** We regularly revise our publications to take account of any changes to the law, so make sure that you have the latest information. If you are unsure, you can check for a more recent version on our website at **[www.ato.gov.au](http://www.ato.gov.au)** or contact us.

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### **PUBLISHED BY**

Australian Taxation Office  
Canberra  
January 2007

NAT 2553-01.2007  
JS 5413

# INTRODUCTION

We offer different types of advice and information that give our view of how tax law applies. We do this to make you aware of your rights and entitlements and to help you to understand and meet your obligations.

Our advice and information can range from advice given to you personally about how the law applies to your particular circumstances through to published information about how the law applies generally.

This publication sets out:

- the types of advice and information we offer
- the extent to which you can rely on our various types of advice and information, and
- how you can get our advice and information.

**The charter is for everyone who deals with us on tax, including superannuation, excise and the other laws we administer.**

Throughout this publication, unless we say otherwise, 'tax' means all matters dealt with by the Tax Office.

## THE LAWS WE ADMINISTER

We are responsible for administering a range of laws for the community. The more common laws we administer and offer advice and information about fall into three broad categories.

Direct taxes and entitlements:

- income tax
- Medicare levy
- fringe benefits tax
- franking taxes
- withholding taxes
- petroleum resource rent tax
- product grants and benefits
- fuel tax credits, and
- net fuel amount.

Indirect taxes:

- goods and services tax
- luxury car tax, and
- wine equalisation tax.

Other laws:

- excise – including alcohol, fuel and tobacco
- superannuation guarantee – including choice of funds
- regulation of self managed superannuation funds (administered in conjunction with the Australian Prudential Regulation Authority)
- other taxes (such as trust recoupment tax), and
- the Australian business number.

## TYPES OF ADVICE AND INFORMATION

We offer two broad types of advice and information – rulings and general advice.

A ruling is a statement that contains our view of the way the law applies in a particular set of circumstances.

General advice can be either:

- published advice and information that provides general guidance and is of interest to many taxpayers, or
- general information we give you about how the law operates, when we do not say how the law applies to your circumstances.

You can choose the type of advice that best suits your needs. However, there are times when we can only give you advice in a particular form. If this is the case, we will discuss this with you.

❗ In a limited range of circumstances – usually when the law does not allow us to give you a ruling – we will give you administratively binding advice (see page 8).

### RULINGS

A ruling sets out how we will apply the law in a given set of circumstances. Rulings provide you with the greatest certainty because we are legally bound to apply the law as set out in the ruling.

There are three types of ruling: public, private and oral.

### Public ruling

A public ruling is a published statement that sets out our view of the way the law applies in circumstances that are common to many taxpayers. If a ruling applies to your circumstances and you follow the advice it contains we are legally bound by it.

We also provide two special types of public ruling:

- A product ruling is advice for all taxpayers about a particular scheme (for example, an investment scheme).
- A class ruling is advice for a particular class of taxpayers about a particular scheme (for example, a ruling for employees about a retirement scheme provided for them by their employer).

We provide public rulings about direct taxes, entitlements and indirect taxes.

All public rulings for direct taxes and entitlements are clearly marked as public rulings, and say who they apply to.

All types of published written advice – including publications – that explain how indirect taxes apply, are public rulings. For this reason we do not always mark them as public rulings.

### Private ruling

You can ask us to give you our written opinion about the way the law applies to your circumstances in the form of a private ruling. Although we are legally bound by the ruling we give you, you can choose not to use it. Also, if you disagree with the private ruling we give you, you can ask us to review our decision.

We can provide a private ruling on direct tax, entitlements and indirect tax matters.

Written general advice we give you that simply restates parts of a law or public ruling on an indirect tax without applying it to your individual circumstances, is also a private ruling.

All private rulings are clearly marked as being private rulings and set out the circumstances to which they apply.

### Oral ruling

We can give you our opinion about the way the law applies to your circumstances over the phone, as an oral ruling. However, we can only provide oral rulings about straightforward non-business income tax and Medicare levy matters.

❗ Not all advice we give over the phone is an oral ruling.

If you ask for an oral ruling, we will ask you a series of questions to check whether we can give an oral ruling on your enquiry. We will also need to confirm your identity. Usually, your tax file number and your most recent notice of assessment will be enough to prove your identity.

When we give you an oral ruling, we keep a record of the advice we have provided and give you a registration number for your records. If you follow the advice we give you in an oral ruling we are legally bound by it, but unlike private rulings you cannot have the decision reviewed.

## GENERAL ADVICE AND INFORMATION

### Publications

In our publications we provide general guidance but cannot cover all possibilities or the circumstances of every taxpayer.

When you read one of our publications, you must choose whether and how to apply the information in the publication to your own circumstances.

We regularly revise our publications to take account of any changes to the law, so make sure that you have the latest information. If you are unsure you can check for a more recent version on our website or contact us.

### Written general advice

We usually give you written general advice if you ask about the broad working of the law. You need to decide how the advice applies to your circumstances.

### Oral general advice

We can give you oral general advice on straightforward or simple matters if you do not need an oral ruling or we cannot give an oral ruling on your enquiry. When we give you oral general advice you should keep a record of the advice and when you got it.

### Other published information

#### Published speeches, minutes of consultative forums and media releases

We publish other information on our website, such as speeches by senior tax officers, minutes of consultative forums and media releases. If you intend to rely on information in any of these documents, make sure it is still current. Check whether we have published more recent information.

#### Published materials produced for internal Tax Office purposes

We also publish information intended for internal Tax Office purposes, such as ATO interpretative decisions, law administration practice statements and training material. If you refer to training material, make sure it is still current. Check other Tax Office publications covering the same topic.

#### Tax Office publications not intended for you to rely on

We publish some information for consultation or for transparency and accountability purposes, for example:

- draft discussion papers about emerging topics where the application of the law is unresolved
- statements in our publications setting out how we might deal with an issue, and
- edited versions of private rulings and administratively binding advice – these are published in the *Register of private binding rulings* on our website.

All of these statements or publications clearly state that you should not rely on them.

### ADMINISTRATIVELY BINDING ADVICE

Administratively binding advice is written advice that we give you in limited circumstances – usually when the law does not allow us to give you a ruling.

For example advice:

- on other laws (such as excise laws) where your liability is worked out
- about the tax consequences to a company planning a takeover bid of another company (without the consent of the target company)
- about a scheme proposed by a company that is not yet incorporated, and
- about a scheme where private or public infrastructure matters are raised and there are no entities yet in existence that can request a private ruling.



## RELYING ON OUR ADVICE

We are committed to giving you advice and information you can rely on, so we make every effort to ensure that it is correct.

If you follow our advice or information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, you are entitled to certain levels of protection under the law.

The level of protection you get from us making an adjustment to increase your liability or decrease your entitlement, or from being charged interest or having to pay a penalty, varies depending on:

- the type of advice you rely on
- the law it covers, and
- the reason for the mistake.

In some cases, time limits set by law will not allow us to make any adjustments.

### **WILL WE INCREASE YOUR LIABILITY OR DECREASE YOUR ENTITLEMENT?**

This will depend on the type of advice you relied on.

#### **Rulings**

If a ruling applies to your circumstances and you follow that ruling, we must apply it. This means that if advice in a ruling is incorrect, that is, it does not correctly set out how the law applies, we will not increase your liability or decrease your entitlement.

However, if we are satisfied that the ruling is incorrect and disadvantages you, we may apply the law in a way that is more favourable to you, provided any time limits set by law allow us to.

If you are misled by advice in a ruling and you make a mistake as a result, we must still apply the law correctly. That may mean that we increase your liability or decrease your entitlement, provided any time limits set by law allow us to.

### **General advice and information**

Although we are not legally bound by our general advice and information, we make every effort to ensure that it is correct.

If it turns out that our advice or information is incorrect, or it is misleading and you make a mistake as a result, we must still apply the law correctly. For some taxes, this means that we will increase your liability or decrease your entitlement, provided any time limits set by law allow us to.

Some publications (such as *TaxPack* and e-tax) contain statements that are public rulings for some groups of taxpayers. If you rely on a statement that is a public ruling for you in one of these publications, read the 'Rulings' section above. It describes what happens if the advice turns out to be incorrect, or it is misleading and you make a mistake as a result.

### **Administratively binding advice**

Administratively binding advice is not legally binding on us. This means that if the advice we give you does not correctly state how the law applies to your circumstances, we may still have to apply the law correctly.

However, we will stand by the advice we gave unless there is a significant reason for us to depart from it – such as a change in the legislation or a court case that affects our interpretation of the law.

If we depart from the advice we gave, it will normally be from the date we tell you that our view has changed. But where the legislation has changed, it will be from the date the new legislation comes into effect.

This means that in most cases we will not increase your liability or decrease your entitlement if our advice turns out to be incorrect.

If you are misled by administratively binding advice and you make a mistake as a result, we must still apply the law correctly. That may mean that we increase your liability or decrease your entitlement, provided any time limits set by law allow us to.

### **WILL WE CHARGE YOU INTEREST?**

In most cases where you rely on our advice or information we will not charge you interest when we increase your liability or decrease your entitlement.

In some very limited situations, however, the law requires us to charge interest. For example, if you as an employer rely on our advice and information on superannuation guarantee and it turns out to be incorrect, we must ask you to pay the nominal interest component of the superannuation guarantee shortfall.

We may also charge you interest if there is evidence that you have not acted reasonably and in good faith when using advice from us that turned out to be incorrect or misleading.

### **WILL WE CHARGE YOU A PENALTY?**

We will not charge you a penalty if you owe us money because you relied on advice or information from us that turned out to be incorrect, or it was misleading and you made a mistake as a result.

However, we may charge you a penalty if you rely on statements or publications where we clearly state that you should not rely on them.

### **WHAT IF A MISTAKE IS IN YOUR FAVOUR?**

If correcting a mistake means we owe you money, we will pay it to you provided any time limits set by law allow us to. We will also pay you any interest you are entitled to.

## IF YOU MAKE A MISTAKE WHEN TRYING TO FOLLOW OUR ADVICE

We presume that you are dealing honestly with us. We accept that you tell us the truth and the information you provide is complete and accurate, unless we have reason to think otherwise.

We accept that mistakes can be made, and unless there is evidence of carelessness, recklessness or intentional disregard, we will continue to believe that you are trying to deal honestly with us, even if you make mistakes.

If you make a mistake when you try to follow our advice and you owe us money as a result, we will not charge you a penalty. However, we will ask you to pay the money and we may also charge you interest.

If correcting the mistake means we owe you money, we will pay it to you. We will also pay you any interest you are entitled to.

- For more information, see our publication *Your honesty and complying with the tax laws* (NAT 2550). It is available at [www.ato.gov.au](http://www.ato.gov.au) by searching for '2550' or phone **1300 720 092** to have a copy posted to you.

# HOW TO ACCESS OUR ADVICE AND INFORMATION

You can access our advice and information in various ways.

You can get information from our website or have copies of our printed publications posted to you. Also, you can write to us or talk to us on the phone or in person.

When you ask for our advice, it is important to make sure that the information you give us is complete and accurate so that the advice we give you will apply to your circumstances.

## PRIVATE RULINGS AND ADMINISTRATIVELY BINDING ADVICE

Tax agents and Business Portal users can lodge completed private ruling application forms through the Tax Agent Portal or Business Portal respectively.

If you want to post or fax the private ruling application form, details are on the form.

The private ruling application form is also used for administratively binding advice.

- 🔍 The private ruling application form is available at [www.ato.gov.au](http://www.ato.gov.au) by searching for 'private ruling' or phone **1300 720 092** to have a copy posted to you.

## ORAL RULINGS

You can phone us on **13 28 61** to get an oral ruling on some straightforward non-business income tax and Medicare levy matters.

### WRITTEN GENERAL ADVICE

Most of our publications are available on our website or you can phone **1300 720 092** to have a copy posted to you.

Some of our information is also available in languages other than English. You can access foreign language publications through our website or by phoning **1300 720 092**.

If you want to write to us for general advice, you should address your mail to:  
**Australian Taxation Office**  
**GPO Box 9990**  
**(capital city of your state or territory)**

### ORAL GENERAL ADVICE

Our phone enquiry numbers are listed under 'Australian Taxation Office' in your local phone directory. You can dial them for the cost of a local call. The number you should phone depends on the type of enquiry you have.

If you do not speak English, you can phone the Translating and Interpreting Service on **13 14 50** and ask them to set up a three way conversation between you, an interpreter and a tax officer.

If you have a hearing or speech impairment and have access to appropriate TTY or modem equipment, you can contact us through the National Relay Service on **13 36 77**.

You can also contact the Aboriginal and Islander infoline on **13 10 30** on personal tax matters.

## MORE INFORMATION

For more information about the taxpayers' charter, visit [www.ato.gov.au](http://www.ato.gov.au) and search for 'charter'. To have a copy posted to you, phone **1300 720 092** and tell us the NAT number of the publication you want from the list below.

### TAXPAYERS' CHARTER PUBLICATIONS

- *Taxpayers' charter – what you need to know* (NAT 2548)
- *Taxpayers' charter – expanded version* (NAT 2547)
- *Treating you fairly and reasonably* (NAT 2549)
- *Your honesty and complying with the tax laws* (NAT 2550)
- *Your privacy and the confidentiality of your tax affairs* (NAT 2552)
- *Getting advice from the Tax Office* (NAT 2553)
- *Accessing information under the Freedom of Information Act* (NAT 2554)
- *Who can help with your tax affairs* (NAT 2555)
- *If you're not satisfied* (NAT 2556)
- *If you're subject to enquiry or audit* (NAT 2558)
- *Fair use of our access and information gathering powers* (NAT 2559)

