



## Reference guide for private rulings

This reference guide will help you complete the private ruling application form.

**Last updated** 14 April 2021

- [How to complete the private ruling application form](#)
- [ATO staff style guide for private rulings](#)
- [Ruling examples](#)

Use this reference guide to:

- complete a private ruling application form
- apply for administratively binding advice (ABA).

Only apply if you are seriously considering the scheme or circumstance. We can't make a ruling on a hypothetical, speculative or insufficiently developed scheme.

### See also

- Private rulings
- Administratively binding advice

**How to complete the private ruling application form**



**ATO staff style guide for private rulings**



QC 54118

# How to complete the private ruling application form

Last updated 14 April 2021

## Section A: Taxpayer details

- [Is this taxpayer an individual or an entity?](#)
- [Is this taxpayer registered for GST?](#)

This section provides details of who the advice is for. Complete the fields for as many taxpayers as required.

### Is this taxpayer an individual or an entity?

An entity can be a company, partnership, trust or superannuation fund. For advice about indirect taxes (GST, wine tax or the luxury car tax), it can also be a member or representative member of a GST group, or a participant in a GST joint venture.

### Is this taxpayer registered for GST?

If yes, indicate whether the business is registered as a GST branch, and if so the details of the parent entity.

## Section B: Contact person and required information

- [Contact details](#)
- [Provide details of how you'll lodge the ruling application](#)
- [For the issues raised in this application, indicate any interactions you have had with us](#)

- [Subject of the advice](#)

## Contact details

Provide details of the person we can contact if we have questions about the application. If the contact person is not the individual or entity that the advice will apply to, specify if they are authorised to act for the taxpayer in this matter.

If you are a tax professional, include your registered agent number and practice name.

## Provide details of how you'll lodge the ruling application

If you:

- lodge through Online services for business or Online services for agents, answer these questions there
- are not lodging through Online services for business or Online services for agents, complete the application as indicated. If you .

## For the issues raised in this application, indicate any interactions you have had with us

If an audit has taken place or you have been notified of a proposed audit, include the ATO reference number and the name of the tax officer involved (if known).

If you have asked for oral or written advice or a ruling on any of the issues that you are now seeking advice on, include the ATO reference number and the date of the ruling or advice.

## Subject of the advice

Select the relevant subject or subjects of your advice or select 'other' if it is not listed.

## This application applies for the following periods

Provide the income years or other accounting periods to be covered by the advice.

## Section C: Your ruling

## Select the type of application you would like to submit

### In this section

- [If you give information about the facts and circumstances](#)
- [If you provide your own detailed reasoning](#)

### If you give information about the facts and circumstances

#### Questions if you give information

List and number the questions you want us to address. Structure them to allow a 'yes' or 'no' answer. An example is 'Will the travel be an allowable deduction?'

We can only give advice about **specific tax laws** or on **certain topics**.

#### Relevant facts and circumstances if you give information

Include a full description of the facts or circumstances – all:

- material facts
- transaction dates
- names of other parties actively involved.

These details need to be reasonably certain.

See **Supporting information** for details of what to include for many categories of private ruling applications. Include this information or relevant extracts from the documents in your description.

#### Assumptions if you give information

You may need to include an assumption if both of the following apply:

- An issue requires you to know or assert a fact.
- It is impossible to verify the fact with reasonable certainty.

If you include an assumption, also include the reason why you made the assumption.

#### Other information (optional) if you give information

Include any:

- other information about how you think the law applies to the scheme
- research and analysis you have done.

## If you provide your own detailed reasoning

You can choose to provide your detailed reasoning on the form itself or attach a separate document. You can refer to [ATO staff style guide for private rulings](#) and

[Ruling examples](#) for help developing and formatting this reasoning.

Questions if you provide reasoning

List and number the questions you want us to address. Include the relevant legislative provision and structure it to allow a 'yes' or 'no' answer. An example is 'Will the travel be an allowable deduction under section 8-1 of the *Income Tax Assessment Act 1997*?'

We can only give advice about **specific tax laws** or on **certain topics**.

Answers if you provide reasoning

Record a 'Yes' or 'No' answer for each question you have raised.

Relevant facts and circumstances if you provide reasoning

Provide a full description of the facts or circumstances. Include all material facts, transaction dates and the names of other parties actively involved. These details need to be reasonably certain as they will define the scheme that is the subject of the advice.

The relevant facts or circumstances can be an outline of steps in a proposed transaction. Material facts are facts that determine how the provision applies or does not apply.

Our website provides details of **supporting information** that is required for many categories of private ruling applications. You should ensure you provide this information or include relevant extracts from the documents in your description.

Do not include subjective judgment or opinions or statements that are subject to contention.

Assumptions if you provide reasoning

You may need to include an assumption where an issue requires you to know or assert a fact, and it is impossible to verify the fact with reasonable certainty.

If you have to include an assumption, you should also include the reason why you made the assumption.

Relevant legislative provisions if you provide reasoning

List the legislative provisions the advice will be covering.

Reasons for decision if you provide reasoning

A reason for decision is required for each question in the advice application – broken into a:

- summary that gives a brief statement of the decision, for example, 'the travel will be an allowable deduction under section 8-1 of the ITAA 1997'
- detailed reasoning on how you reached the answers to your questions
  - Outline the applicable elements of the law to the material facts as described in the relevant facts or circumstances.
  - For example, start with the relevant legislation, case law and any published views or rulings by the Commissioner of Taxation.
  - Apply the facts and circumstances outlined above to these authorities to arrive at a conclusion.

## Section D: Declaration

You must sign the declaration if you are lodging the application by fax or post.

If you are lodging the application by Online services for business or Online services for agents, that is your electronic signature.

## Section E: How to lodge your application

If you are lodging by fax or post, use the fax number or postal address provided when you select your entity type or matter from the drop down menu.

### Find out more

- [ATO staff style guide for private rulings](#)
- [Ruling examples](#)

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QC 54118

## LC child page MC 2

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## ATO staff style guide for private rulings

**Last updated** 14 April 2021

This style guide is a copy of the standards that our officers apply when writing documents such as private rulings. When we say 'you' we are referring to ATO staff.

### How ATO staff refer to legislation

#### In this section

- [General approach](#)
- [Referring to an Act in an abbreviated form](#)
- [Referring to multiple elements of an Act](#)
- [Regulations](#)
- [Bills \(legislation not yet passed\)](#)
- [Explanatory Memoranda](#)
- [Repealed Acts](#)
- [International tax agreements](#)

- [Legislative determinations](#)

## General approach

When legislation is cited in text, apply the most specific appropriate reference of the piece of legislation that is used. You need to cite the short title of the Act, not the long title.

### Example of how to cite legislation

Title	How to cite
Long title	<i>Income Tax Assessment Act 1997</i> . An Act about income tax and related matters.
Short title	<i>Income Tax Assessment Act 1997</i>

Where necessary for distinguishing purposes, different elements of the legislation (in ascending order) will need to be included in the citation. For example:

- Section 136AD of the *Income Tax Assessment Act 1936*
- Division 13 of Part III of the *Income Tax Assessment Act 1936*
- Section 358-5 of Schedule 1 to the *Taxation Administration Act 1953*
- Part 5-5 of Schedule 1 to the *Taxation Administration Act 1953*

It is permissible to refer to an Act at the start of a report (or section of a report, such as the Explanation/Reasons for decision) stating that all references are to that Act. For example, 'All references are to the *Income Tax Assessment Act 1997* (ITAA 1997)'.

If more than one Act is being referenced, it is acceptable to write 'All references are to the *Income Tax Assessment Act 1997* (ITAA 1997) unless otherwise stated'.

To avoid confusion, when referring to specific parts of an Act (such as a section or subsection) abbreviations, such as 's' or 'ss', should not be used.

## Referring to an Act in an abbreviated form

When you wish to refer to an Act in an abbreviated manner the abbreviation should be referred to the first time you cite the Act. The abbreviation should then be used thereafter, for example *Income Tax Assessment Act 1936* (ITAA 1936).

Care should be taken to cite the full title of the relevant Act followed by a meaningful abbreviation, and not to invent legislation, for example 'the Tax Act'. Spelling and capitalisation must be exactly as the name of the Act. To achieve consistency, the following abbreviations for legislation should be used.

- GST Act – *A New Tax System (Goods and Services Tax) Act 1999*
- ADJR – *Administrative Decisions (Judicial Review) Act 1977*
- DAFGSA – *Diesel and Alternative Fuels Grants Scheme Act 1999*
- FBTA – *Fringe Benefits Tax Assessment Act 1986*
- ITAA 1936 – *Income Tax Assessment Act 1936*
- ITAA 1997 – *Income Tax Assessment Act 1997*
- ITR 1986 – *Income Tax Rates Act 1986*
- Agreements Act – *International Tax Agreements Act 1953*
- PRRTAA – *Petroleum Resource Rent Tax Assessment Act 1987*
- SGAA – *Superannuation Guarantee (Administration) Act 1992*
- SISA – *Superannuation Industry (Supervision) Act 1993*
- TAA – *Taxation Administration Act 1953*

When abbreviating Acts which have the same or similar abbreviations to popular Acts – for example, ITAA can be Income Tax Assessment Act or International Tax Agreements Act – you must use abbreviations that do not mislead the reader.

## **Referring to multiple elements of an Act**

### **Within one paragraph**

If a section or subsection, Part or Division or similar, is referred to multiple times in one paragraph, the Act from which the section (or similar) is drawn only needs to be cited at the first use in each paragraph, providing that only sections from the one Act are referred to in that paragraph.

If that paragraph contains multiple derivatives of a section (or similar) the Act from which it is drawn is also only cited in the first instance.

### **Example: quoting the same subsection**

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Subsection 273(9) of the ITAA 1936 expands the scope of subsection 273(2) so that it applies to non-share dividends. Paragraph 273(9)(a) provides that section 273 applies to a non-share equity interest in the same way as it applies to a share, paragraph 273(9)(b) provides that section 273 applies to an equity holder in the same way as it applies to a shareholder and paragraph 273(9)(c) provides that section 273 applies to a non-share dividend in the same way as it applies to a dividend.

Subsection 273(9) of the ITAA 1936 expands the scope of subsection 273(2) so that it applies to non-share dividends. Paragraph 273(9)(a) provides that section 273 applies to a non-share equity interest in the same way as it applies to a share, paragraph 273(9)(b) provides that section 273 applies to an equity holder in the same way as it applies to a shareholder and paragraph 273(9)(c) provides that section 273 applies to a non-share dividend in the same way as it applies to a dividend.

### **Example: quoting the same Act**

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'Foreign tax' is defined in subsection 6AB(2) of the ITAA 1936 to include income tax imposed by a law of a foreign country. In order to be considered a creditable income tax for the purposes of subsection 160AF(1) of the ITAA 1936, a foreign tax must be directed at the taxpayer's net income or gain. In this case, the tax was not imposed by a law of a foreign country in a way that meets the definition in subsection 6AB(2).

If the above paragraph was extended to include a reference to another Act, it would become:

- 'Foreign tax' is defined in subsection 6AB(2) of the ITAA 1936 to include income tax imposed by a law of a foreign country. In order to be considered a creditable income tax for the purposes of subsection 160AF(1) of the ITAA 1936, a foreign

tax must be directed at the taxpayer's net income or gain. In this case, the tax was not imposed by a law of a foreign country in a way that meets the definition in subsection 6AB(2) of the ITAA 1936. As the taxpayer is a resident of Australia, the New Caledonia pension and rental income forms part of their assessable income under subsection 6-5(2) of the ITAA 1997.

If you cite the legislation as a list, that list is regarded as one paragraph for the purposes of citing legislation.

### Example: using bullets

However, a member of a fund is not an active member of the fund at the relevant time under paragraph 295-95(3)(b) of the ITAA 1997 if:

- the member is both a
  - foreign resident (subparagraph 295-95(3)(b)(i))
  - contributor at that time (subparagraph 295-95(3)(b)(ii))
- the only contributions made to the fund on the member's behalf since the member became a foreign resident were made in respect of a time when the member was an Australian resident (subparagraph 295-95(3)(b)(iii)).

### Within one sentence

The following examples illustrate how to cite multiple sections or subsections in one sentence:

- subsections 31-25(1) and 33-10(1) of the GST Act
- subsections 38-325(1) and (2) of the GST Act.

### Regulations

Citing of regulations follows the same principles as legislation. The titles of regulations are also presented in italics.

Note that regulations made after 1 January 2012 are given in the singular, that is 'regulation', rather than the plural 'regulations'. For

these, references are also to be given in the singular, for example '...this regulation...', not '...these regulations...'

Pinpoint references in regulations are to:

- regulation
- subregulation
- paragraph
- subparagraph
- sub-subparagraph.

**Note:** For regulations made after 1 January 2012, pinpoint references (except for those in Schedules – see below) are to:

- section
- subsection
- paragraph
- subparagraph
- sub-subparagraph.

## **Bills (legislation not yet passed)**

The title of the bill is not italicised, for example Taxation Laws Amendment (A Simpler Business Activity Statement) Bill 2002.

## **Explanatory Memoranda**

The Australian Oxford Dictionary, 2004, rev. 2nd edn, Oxford University Press, Melbourne states that both forms of the plural, that is to say Memorandums and Memoranda are acceptable.

When quoting an Explanatory Memorandum, it is always to the Bill, even when the Bill has subsequently become an Act of Parliament, for example Explanatory Memorandum to the Taxation Laws Amendment Bill (No.4) of 1996 (Cth).

## **Repealed Acts**

It is necessary to indicate that the Act is now repealed or superseded. For superseded sections of Acts, you should indicate that the Act you are citing was current as at a particular date. For example:

- *Local Government (Financial Assistance) Act 1986* (repealed)
- *Income Tax Assessment Act 1936* as at 1 April 1975
- Subparagraph 170(2)(b)(i) of the ITAA 1936 (repealed as of 1 July 2000)
- Section 6-5 of the ITAA 1997 (as amended)

## International tax agreements

Previously, the full text of international agreements to which Australia was a party were replicated as separate schedules to the *International Tax Agreements Act 1953* (Agreements Act). Following the enactment of the *International Tax Agreements Amendment Act (No. 1) 2011* with effect from 27 June 2011 all but one of the various schedules to the Agreements Act have been repealed. The new approach in the Agreements Act is to refer to the Australian Treaties Series (set out on the Australasian Legal Information Institute site [Austlii](#) ) , which contains the full text of the agreement.

Given the length of some of the titles of the agreements, if you wish to refer to the agreement in an abbreviated manner elsewhere in the document, the abbreviation should be referred to the first time you cite the agreement, and the abbreviation should be used thereafter.

Alternatively, consideration could also be given to the use of footnotes to make the citation – subject to the certain provisos provided in the section on footnotes later in this document. If this option was chosen, the abbreviation could be used in the main text, with a footnote to the full citation as outlined below.

The first time you cite an international agreement, it must be cited in full, as follows (in order of citation):

- full title of the agreement, in italics
- medium neutral citation.

### Example: International tax agreements

- Agreement between Australia and the Kingdom of the Netherlands for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, and Protocol [1976] ATS 24.

- Agreement between the Government of Australia and the Government of the British Virgin Islands for the Allocation of Taxing Rights with respect to certain Income of Individuals [2010] ATS 13.

## Legislative determinations

Final legislative determinations do not have a reference number – they only have the title of the determination. The title should be cited in full and in italics.

### Example: Legislative determinations

- Diesel and Alternative Fuels Grants Scheme (Journeys) Determination 2000
- A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No 1) 2001
- Draft legislative determinations published for comment do have a reference number, which needs to be cited. The title should be also cited in full and in italics.
- Draft Legislative Determination EXC 2016/D1 Excise (Volume – recycled waste oil) Determination 2016 (No. 1)

## How ATO officers refer to cases

### In this section

- [General approach](#)
- [Citing taxation cases](#)
- [Pinpoint referencing](#)
- [Abbreviating the case name](#)
- [References to the Commissioner of Taxation](#)
- [Unreported cases](#)

## General approach

Cases should be cited in the following order and style:

1. The name of the case in italics; no comma should follow the name (the name of the case should be cited in the manner in which the first reporter cites the name). The 'v' is in italics, lower case and followed by a full stop.
2. The year the case was reported is surrounded by brackets, either round or square.
3. The volume number, if one exists.
4. The abbreviation of the reporter; there are no full stops in the abbreviation.
5. The page number of the first page of the case. If this is the last item in the citation (reference or sentence) it is followed by a full stop.
  - Not all cases include page numbers in the reference.
  - For example, Commonwealth Taxation Board of Review (CTBR) references use the case number in place of the page number.
6. For footnote purposes, if reference is made to a specific page number, it is preceded by a comma only.
7. If this is the last item in the citation (reference or sentence) it is followed by a full stop. If not, it is followed by a comma.

### Example: general approach

The following example illustrate the general approach – '*Curran v. Federal Commissioner of Taxation* (1974) 131 CLR 409'.

If reference was made to pages 411 to 416 of the above case, it would read '*Curran v. Federal Commissioner of Taxation* (1974) 131 CLR 409, 411-416'.

If the case was referred to in the text, as part of a sentence, a comma is inserted instead of the full stop '*Curran v. Federal Commissioner of Taxation* (1974) 131 CLR 409, 411-416, the judge held that the arrangement was...'

## Citing taxation cases

Taxation cases are reported in a variety of ways. Taxation cases may be heard by courts or various boards or tribunals.

## **Court cases**

When a taxation case is heard by a court, the court will generally authorise a report of that case. The authorised reports for Australian court cases are:

- the Commonwealth Law Reports (CLR) – High Court
- the Federal Court Reports (FCR) – Federal Court.

Commercial publishers also produce reports for these cases. In Australia, the publishers are CCH Australia Limited and Thomson ATP which produce the tax series cases – the Australian Tax Cases (ATC) and Australian Tax Reports (ATR).

In recent years, cases have also been published by the courts themselves in electronic form on a number of websites. The judgments which appear on our website are drawn from this source. This form of reporting uses the case number allocated by the court, and paragraph numbers, rather than a volume/case number allocated by a publisher and page numbers. It is referred to as a 'medium neutral' method of citing, because the case can be cited without referring to the publication from which the case has been taken.

You should cite as follows:

1. First use the case name per the authorised report.
2. Follow it by its citation.
3. Then state both:
  - the medium neutral citation where it exists
  - the citations of the ATC and ATR reporters, where they exist.

### **Example: High Court**

Federal Commissioner of Taxation v. Payne (2001) 202 CLR 93; [2001] HCA 3; 2001 ATC 4027; (2001) 46 ATR 228 – in this situation, the:

- case name per the authorised report is 'Federal Commissioner of Taxation v. Payne'

- High Court citation is '(2001) 202 CLR 93'
- High Court medium neutral citation is '[2001] HCA 3'
- CCH and ATP citations are '2001 ATC 4027' and '(2001) 46 ATR 228' respectively.

### Example: Federal Court

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Commissioner of Taxation v. Jones (2002) 117 FCR 95; [2002] FCA 204; 2002 ATC 4135; (2002) 49 ATR 188 – in this situation:

- the case name per the authorised report is 'Commissioner of Taxation v. Jones'
- the Federal Court citation is '(2002) 117 FCR 95'
- the Federal Court medium neutral citation is '[2002] FCA 204'
- the CCH and ATP citations are '2002 ATC 4135' and '(2002) 49 ATR 188' respectively.

### Board and Tribunal cases

AAT cases and some court cases do not have an authorised reference. In that instance, both the medium neutral citation and the ATC and ATR reports should be cited where they exist.

The examples below are illustrative in that only a maximum of three citations would normally be made for any one case (see point three above).

### Example: Board and Tribunal cases

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*Flint and Commissioner of Taxation* [2002] AATA 785; 2002 ATC 2162; (2002) 50 ATR 1226 – in this situation:

- '[2002] AATA 785' is the AAT medium neutral citation
- '2002 ATC 2162' and '(2002) 50 ATR 1226' are the ATC and ATR references respectively.

A number of Board and Tribunal cases have had the parties' names made anonymous. Therefore, the case is identified by a number rather than a name. Both CCH and ATP should be cited.

Case U43 87 ATC 314; AAT Case 38 (1987) 18 ATR 3246 – in this situation:

- 'Case U43 87 ATC 314' is the CCH citation
- 'AAT Case 38 (1987) 18 ATR 3246' is the ATP citation.

Case 7/2000 2000 ATC 168; Case [2000] AATA 1025 44 ATR 1131 – in this situation:

- 'Case 7/2000 2000 ATC 168' is the CCH citation
- 'Case [2000] AATA 1025 44 ATR 1131' is the ATP citation.

## Pinpoint referencing

If you want to refer to the judgments of particular judges, or you wish to state the location of a quote, then you can either use the paragraph number of the medium neutral citation or the page number from the particular report.

If you include page numbers, you must include the page numbers from all the reporters you have cited.

### Example: page reference

[It] has been argued that the comments of Menzies J in *Franklin's Selfserve Pty Ltd v. Federal Commissioner of Taxation* (1970) 125 CLR 52; 70 ATC 4079; (1970) 1 ATR 673 provide judicial support for the proposition that a "broad brush" approach to the concept of beneficial ownership should be adopted... He noted at CLR 70; ATC 4089; ATR 686 that the function...

You also need to reference cases consistently if the medium neutral reference is available. You may need to quote from some cases that do not deal with the application of a revenue law. Such cases will generally have not been reported in the CCH or ATP series of reports which deal with taxation matters. These cases may nevertheless have some bearing on the interpretation of the tax law you are dealing with.

When making reference to these cases the only citation that needs to be made is that of the authorised report for that court. This will usually mean the citation will be a CLR, FCR or state court report citation.

## Abbreviating the case name

Where a case is referred to a number of times in a text, it may be shortened in second and subsequent references. You should decide how you are going to refer to the case subsequently at the time you first cite the case, and include the abbreviation at the end of the first reference to the case, in italics and within brackets.

### Example: how to abbreviate a case name

The following two formats illustrate different ways of abbreviating the case name (note that these cases would normally have multiple referencing):

- *Federal Commissioner of Taxation v. Spotless Services Limited* (1996) 186 CLR 404 (Spotless).
- *Federal Commissioner of Taxation v. Peabody* (1994) 181 CLR 359 (Peabody Case).

For later references to the case, simply use the italicised abbreviation:

- ... in the Peabody Case the judge stated ...
- ... Spotless confirms that ...

Once you have selected a format, it is important to use it consistently throughout the rest of the document.

Specifying the forum in which a case was heard is not generally necessary. However, where there is a need to emphasise the authority of a decision, an abbreviation indicating the forum in which the case was heard can be added after the case citation.

If there is a need to draw attention to the fact that the matter was heard by a full sitting of a particular court, this is generally stated fully – for example, 'the full Federal Court'. Stating the forum is also helpful in cases where the judgment of a lower court and an appellate court are referred to in the one document.

## Example: case heard in the High Court

To emphasise the fact that the following case was heard by the High Court, you could use the following:

- *Taylor & Anor v. Federal Commissioner of Taxation* (1970) 119 CLR 444 (HC), or
- The High Court decision in *Taylor & Anor v. Federal Commissioner of Taxation* (1970) 119 CLR 444, reinforces the view ....

## References to the Commissioner of Taxation

The correct reference to the Commissioner of Taxation will depend on the citation used in the reports being used. Each set of reports has a different method of citation and you should copy the method of the reports you are using. For example:

- *Coles Myer Finance Ltd v. Federal Commissioner of Taxation* (1993) 176 CLR 640
- *BHP Australia Coal Limited v. FC of T* 93 ATC 2071
- *BHP Australia Coal Limited v. FCT* (1993) 26 ATR 1041

You should use the reference to the Commissioner given in the authorised report. Only use the reference in the ATC or ATR reports if there is no authorised report.

## Unreported cases

The citation of unreported decisions should follow the Australian Guide to Legal Citation, 3rd edition published by Melbourne University Law Review Association Inc.

Where a case is otherwise unreported but the court has adopted the medium neutral citation system, cases may be cited using the medium neutral reference only. For example *Australian Broadcasting Corporation v. Lenah Game Meats Pty Ltd* [2001] HCA 63.

For unreported cases which predate the medium neutral citation system, the following order should be used:

- the name of the case in italics; no comma should follow the name

- the 'v' is in italics, lower case and followed by a full stop
- open brackets and type 'Unreported' followed by a comma
- the court which made the decision followed by a comma
- the judges' names, followed by a comma
- the date of the judgment and close brackets
- the pinpoint (judgment) number, if known, of the decision. If this is the last item in the citation (reference or sentence), it is followed by a full stop.

An example is '*Smith v. Jones* (Unreported, Supreme Court of Victoria, Nathan J, 18 March 1994) 56'.

## How ATO officers refer to documents we produce

In this section:

- [Rulings and determinations](#)
- [Practical compliance guidelines](#)
- [ATO Interpretative Decisions](#)
- [Decision impact statements](#)
- [Law administration practice statements](#)

### Rulings and determinations

For rulings and determinations, the naming convention for the year of issue changed in 1999. Rulings and determinations issued prior to 1999 have a two-digit year indicator, whereas rulings and determinations issued in or after 1999 have a four-digit year. CGT determinations (1-60) do not have a year displayed.

#### Example: rulings and determinations

Note especially the spaces before and after the terms such as 'IT', 'TR', 'TD':

- Taxation Ruling TR 94/19 (convention used for rulings issued before 1999)
- Goods and Services Tax Determination GSTD 2007/3 (convention used for rulings issued in and after 1999)
- Taxation Determination TD 10 (convention used for CGT determinations).

The first time you cite rulings and determinations within text it must be in full, using the long title.

When you quote the long title of a ruling, it is to be italicised, except for the ruling type and number – 'Taxation Ruling TR 2002/7 Income tax: deductibility of payments to strike funds'.

The title may be omitted for the second or subsequent citations where a ruling or determination is cited more than once in the same report or chapter of the document.

- (initial citation) Taxation Ruling IT 2234 Income tax: business of primary production
- (subsequent citation) IT 2234
- (initial citation) Law Companion Guideline LCG 2015/3 Subdivision 815-E of the Income Tax Assessment Act 1997: Country-by-Country reporting
- (subsequent citation) LCG 2015/3.

## **Draft public rulings**

Draft public rulings are cited in the same manner as rulings and determinations. For example, 'Draft Taxation Ruling TR 2007/D10 Income tax: capital gains: capital gains tax consequences of earnout arrangements'.

## **Addenda, errata or withdrawal notices for public rulings**

If you are citing a particular addendum or erratum notice, or the withdrawal notice for a ruling (as opposed to the ruling itself), these have an alphabetical appendix after their number, that is, A, ER or W. If there has been more than one addendum or erratum notice for a particular ruling, there will also be a numerical appendix after the A or ER.

Tip: The notice itself will always have the alpha and numeric appendix noted at the start in the HTML version, and on the cover note on the PDF version.

### **Example: addenda, errata, withdrawal notice**

The first addendum to Taxation Ruling TR 2006/10 is cited as 'Taxation Ruling TR 2006/10A1'.

The second addendum to Taxation Ruling TR 2006/10 is cited as 'Taxation Ruling TR 2006/10A2'.

The erratum to the first addendum to Taxation Ruling TR 2006/10 is cited as 'Taxation Ruling TR 2006/10A1ER'.

- The withdrawal notice for Taxation Determination TD 2013/14 is cited as 'Taxation Determination TD 2013/14W'.

## **Practical compliance guidelines**

When citing a Practical compliance guideline, follow the same principles as for rulings and determinations. The first time you cite a Guideline in text it must be in full, using the long title. The title of the ruling is to be italicised, except for the ruling type and number. The title may be omitted for the second or subsequent citations. For example:

- (initial citation) Practical Compliance Guideline PCG 2016/1 Practical Compliance Guidelines: purpose, nature and role in ATO's public advice and guidance
- (subsequent citation) PCG 2016/1

## **ATO Interpretative Decisions**

ATO Interpretative Decisions (ATO IDs) are also cited in the same manner as rulings and determinations, for example 'ATO Interpretative Decision ATO ID 2003/18 Group company loss transfers – loss company inactive during deduction year'.

ATO IDs may be cited either in the body of the report or in letters to taxpayers. You may base the wording of a private ruling on material contained in an ATO ID, provided it is appropriately personalised to the taxpayer's circumstances. For example 'In coming to our decision, we

have taken into consideration ATO Interpretative Decision ATO ID 2006/21 Goods and services tax – GST and receipt of surety bond payment.'

## Decision impact statements

The citation for a DIS is prefaced with the words 'Decision impact statement on' followed by the case citation. For example:

- Decision impact statement on Deputy Commissioner of Taxation v. McGuire [2013] NSWSC 184
- Decision impact statement on Young & Anor v. Commissioner of Taxation [2013] AATA 347

## Law administration practice statements

When citing Law administration practice statements (LAPS) you can use either the long, short or abbreviated title.

### Examples of how to use a title


Long title	Short title	Abbreviated title
Law Administration Practice Statement PS LA 2003/4 Written binding advice – requests for further information	PS LA 2003/4 Written binding advice – requests for further information	PS LA 2003/4
Law Administration Practice Statement (General Administration) PS LA 2004/1 (GA) Lodgment opportunity for family trust and interposed entity elections	PS LA 2004/1 (GA) Lodgment opportunity for family trust and interposed entity elections	PS LA 2004/1 (GA)

## How ATO officers refer to electronic material

## Website

Where a website is cited in text, it should contain:

- the name of the author (person or organisation responsible for the site)
- the site date (the date of the site's creation or most recent update)
- the URL.

For example, 'Department of Finance and Administration 2001, Department of Finance and Administration, Canberra, viewed 7 August 2003, [finance.gov.au](http://finance.gov.au) 

## ATO officers' general style requirements

The following is the advice ATO officers apply when writing our advice. In this section, 'you' refers to the ATO officer.

### In this section

- [References to the year of income](#)
- [Initialisms and acronyms](#)
- [States and territories](#)
- [Formatting text](#)
- [Currency](#)
- [Days and dates](#)
- [Referring to the ATO](#)

## References to the year of income

You may refer to a year of income as:

- the '201011 financial year'
- the '2010-11 year of income'
- '1 July 2010 to 30 June 2011'
- 'financial year ended 30 June 2011'.

Do not use 'the 2010/11 financial year'.

## Initialisms and acronyms

A series of words can be shortened to the initial letter (and sometimes others) of some or all of the words. In general, spell such initialisms out at first use and give the initialism in brackets immediately after, for example:

- ABC (Australian Broadcasting Corporation)
- ATO (Australian Taxation Office)
- GST (goods and services tax).

Do not use an acronym if the term appears in your document only once.

Some shortened names and acronyms have become fully accepted independent words for example, 'Qantas', 'radar' and 'scuba'. In these instances, you would not use the underlying name or phrase in preference to the acronym because the acronym is so well known it has an independent identity. Follow the dictionary spelling in these cases.

## States and territories

Use the following initialisms for Australian states and territories in addresses and where space is limited, such as in tables:

- Australian Capital Territory (ACT)
- New South Wales (NSW)
- Northern Territory (NT)
- Queensland (QLD, not Qld)
- South Australia (SA)
- Tasmania (TAS, not Tas)
- Victoria (VIC, not Vic)
- Western Australia (WA).

## Formatting text

This section contains information about bolding, italicising and underlining text.

## Bold

Use bold:

- to bring attention to words – however, use bold sparingly as overuse reduces its effectiveness and do not use italics
- when writing phone numbers and addresses
- for a term you are defining and following by the definition.

### Example: Bold

**Intellectual Property**, or 'IP', refers to the various rights which the law accords for the protection of creative effort – and especially for the protection of economic value of creative efforts. IP is intangible as opposed to tangible or 'physical' in character.

## Italics

Use italics when referring to the full title of any publication, including forms, web pages, rulings, determinations, law administration practice statements (LAPSs), and legislation (that is, the title including year).

### Example: italics

Based on the information in the *Guide to depreciating assets ...*  
*... the Canberra Times, the Australian Financial Review, Australian Health Review ...*  
*See Law Administration Practice Statement PS LA 2004/11 The Commissioner's discretions to treat a particular document as a tax invoice or adjustment note.*

Do not use italics:

- for the title of any publication when it is a hyperlink (however, note the special rules for hyperlinking the titles of tax determinations, ATO IDs, LAPS and CMPS) – for example, Refer to **Rental properties 2016**
- for shortened titles or general references to forms, rulings etc

- to bring attention to words – such words should be in bold instead.

## Underlining

Do not underline text. Use bold for emphasis and italics for the titles of publications.

## Currency

In general, use figures and symbols to express currency. Use the dollar (or other appropriate currency) symbol (\$) and a full stop for a decimal point.

For amounts up to one million, use the form: symbol | figure for example, \$999,999.95.

For one million or more:

- in text use the form: symbol | figure | non-breaking space | value (spelt out in full) for example, \$2 billion, \$10.5 million
- in tables, graphs, figures, flowcharts, footnotes, captions and diagrams the word for the value is abbreviated (that is, million becomes 'm' and billion becomes 'b' – without a full stop) and there is no space after the figure for example, \$2m, \$10.5m).

## Foreign currency

When you refer to foreign dollars, place the relevant letter or letters for the country immediately before dollar symbol (\$) for example, NZ\$500, US\$900 – or use the appropriate symbol for that currency (for example, Euro – €; Pound – £; Yen – ¥).

In text where we need to distinguish the Australian dollar from the dollar in other countries, use the Reserve Bank of Australia's style, A\$.

## Days and dates

When writing a specific date, use a combination of figures and numbers without commas in the form: day | non-breaking space | month | space | year. For example:

- 30 June 2009
- Tuesday 10 February 2009.

Do not use the ordinal form for dates – that is, write '31 October' not '31st October'.

## Referring to the ATO

When referring to the ATO, use:

- 'ATO' (not 'Tax Office') when using the third person stance – this is because we administers more than tax alone
- 'us' or 'we' when using the first person stance.

When using 'ATO', follow the normal rule for using shortened names; that is, at the first mention you should use the full name – Australian Taxation Office – and thereafter use the short form.

### Find out about

- Back to the start – [Reference guide for private rulings](#)
- [Ruling examples](#)

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## Ruling examples

Last updated 14 April 2021

### Example 1 – draft ruling on deductibility of self-education expenses

#### Subject

Self-education expenses

#### Question

Will the self-education expenses be an allowable deduction under section 8-1 of the *Income Tax Assessment Act 1997*?

#### Answer

Yes.

## Relevant facts and circumstances

Suggested objective facts to include:

- details of the course being undertaken
- whether you are employed, or receiving government assistance to study
- if employed, full description of employment duties and status
- purpose of the course – and your future intentions
- a description of the expense incurred or to be incurred.

## Assumptions

Nil.

## Relevant legislative provisions

*Income Tax Assessment Act 1997* section 8-1.

## Reasons for decision

### Summary

The expenses you incur in relation to your study are deductible as they maintain or increase the specific knowledge required in your current position and to carry out your duties more effectively.

### Detailed reasoning

Section 8-1 of the *Income Tax Assessment Act 1997* allows a deduction for all losses and outgoings to the extent to which they are incurred in gaining or producing assessable income except where the outgoings are of a capital, private or domestic nature, or relate to the earning of exempt income.

Taxation Ruling TR 98/9 Income tax: deductibility of self-education expenses incurred by an employee or a person in business, discusses the circumstances under which self-education expenses are allowable as a deduction. A deduction is allowable for self-education expenses if a taxpayer's current income-earning activities are based on the exercise of a skill or some specific knowledge and the subject of the self-education enables the taxpayer to maintain or improve that skill or

knowledge (Federal Commissioner of Taxation v. Finn (1961) 106 CLR 60, (1961) 12 ATD 348).

Similarly, if the study of a subject of self-education objectively leads to, or is likely to lead to an increase in a taxpayer's income from his or her current income earning activities in the future, a deduction is allowable.

However, no deduction is allowable for self-education expenses if the study is designed to enable a taxpayer to open up a new income-earning activity, whether in business or in the taxpayers current employment. Such expenses of self-education are incurred at a point too soon to be regarded as incurred in gaining or producing assessable income (Federal Commissioner of Taxation v. Maddalena (1971) 45 ALJR 426; (1971) 2 ATR 541; 71 ATC 4161 and paragraphs 15, and 48-62 of TR 98/9).

In your situation, the course of study can be objectively seen as being undertaken in order to maintain or increase the specific knowledge required in your current position and to carry out your duties more effectively. The study has not been undertaken at a point too soon to be regarded as being incurred in respect of your current income earning activities and is not seen as opening a new discrete income earning activity. Accordingly you are entitled to a deduction for the expenses you incur in respect of the study.

## **Example 2 – draft ruling on whether a beverage will meet the definition of ‘beer’ for excise purposes**

### **Subject**

Flavoured beverage

### **Question**

Will the product meet the definition of ‘beer’ as defined in The Schedule to the *Excise Tariff Act 1921*?

### **Answer**

Yes.

## Relevant facts and circumstances

The product to be manufactured is a flavoured beverage.

The production methodology is as follows:

- An aqueous extract is produced utilising the traditional brew house processes of mashing, lautering and cooling.
- The aqueous extract is made up of wheat malt (85%) and sugar (15%).
- Hops are added at the boiling stage.
- The wort is cooled to 20°C and yeast strain is added.
- The brew is transferred to a fermenter for fermentation to occur.
- After maturation the brew is filtered and sugar and flavours are added.
- The beverage is carbonated.
- Water is added to the mash.

Hops is added during the production process. The addition of the hops gives the product an International Bitterness Units (IBU's) measurement of 5.0.

After the fermentation phase, the quantity of sugar in the beverage is measured to ensure that there is no residual sugar after fermentation.

No artificial sweeteners are added to the beverage.

The following are added to the beverage during the production process:

- 2g of sugar (sucrose) per litre
- 0.5ml per litre of sodium benzoate (25%) in water (if unpasteurised). This is not added if the beverage is to be pasteurised
- 2.4ml per litre of citric acid (50%) w/w in water
- 4ml per litre of fruit flavour
- does not contain any sugar
- does not contain any alcohol.

No spirit distilled from beer is added to the beverage at any time in the production process.

The alcohol content of the final beverage is 4.5%.

## Relevant legislative provisions

*Excise Tariff Act 1921* The Schedule

## Reasons for decision

### Summary:

The product is considered to be a 'beer' for the purposes of the *Excise Tariff Act 1921*.

### Detailed reasoning:

From 28 August 2009 the Schedule to the *Excise Tariff Act 1921* provides that:

- beer means a brewed beverage that
  - (a) is the product of the yeast fermentation of an aqueous extract, being predominantly an aqueous extract of cereals
    - (i) whether the cereals are malted or unmalted; and
    - (ii) whether or not the aqueous extract contains other sources of carbohydrates; and
  - (b) contains:
    - (i) hops, or extracts of hops, such that the beverage has international bitterness units of not less than 4.0; or
    - (ii) other bitters such that the beverage has a bitterness comparable to that of a beverage mentioned in subparagraph (i); and
  - (c) contains not more than 4.0% by weight of sugars; and
  - (d) has not had added to it, at any time, artificial sweetener; and
  - (e) may have had added to it, at any time, other substances, including flavours, but only if, in the case of substances that contain alcohol (other than spirit distilled from beer), the alcohol did not add more than 0.5% to the total volume of the final beverage; and
  - (f) may have had added to it, at any time, spirit distilled from beer, but only if that spirit did not add more than 0.5% to the

total volume of the final beverage; and

- (g) contains more than 1.15% by volume of alcohol.

The flavoured beverage produced is the product of the yeast fermentation of an aqueous extract of predominantly wheat malt. The term 'predominantly' is not a defined term within the excise legislation therefore it takes its ordinary meaning of 'mainly; for the most part.' The flavoured beverage therefore satisfies the requirement of paragraph (a) of the definition of beer in the Schedule to the *Excise Tariff Act 1921*.

During the production process hops is added to your flavoured beverage which has 5 IBU's. Therefore the beverage satisfies paragraph (b) of the definition of beer in the Schedule to the *Excise Tariff Act 1921* as it contains hops and IBUs of not less than 4.0.

The final beverage does not contain more than 4.0% by weight of sugars and does not have any artificial sweeteners added to it during the production process. After the wheat malt and sugar are fermented the beverage does not contain any sugar. Additional sugar is added later in the production process, measured at 2 grams of sugar per litre. If there is any residual sugar in the beverage after fermentation the quantity of additional sugar added is adjusted to ensure that the final beverage does not contain more than 4.0% of sugars. Therefore, the flavoured beverage satisfies paragraphs (c) and (d) of the definition of beer in the Schedule to the *Excise Tariff Act 1921*.

During the production process the following is added to the beverage:

- 2g of sugar (sucrose) per litre
- 0.5ml per litre of sodium benzoate (25%) in water (if unpasteurised). This is not added if the beer is to be pasteurised
- 2.4ml per litre of citric acid (50%) w/w in water
- 4ml per litre of fruit flavour.

These additions do not add more than 0.5% alcohol to the total volume of the final beverage, therefore satisfying paragraph (e) of the definition of beer in the Schedule to the *Excise Tariff Act 1921*. The beverage also satisfies paragraph (f) of the definition of beer in the Schedule to the *Excise Tariff Act 1921* as no spirit distilled from beer is not added to the beverage during the production process.

The flavoured beverage satisfies paragraph (g) of the definition of beer in the Schedule to the *Excise Tariff Act 1921* as it contains 4.5% alcohol by volume.

Having satisfied all of the paragraphs within the definition of beer, the product is considered to be a 'beer' for the purposes of the *Excise Tariff Act 1921*.

### **Find out about**

- Back to the start – [Reference guide for private rulings](#)

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## **Our commitment to you**

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

If you feel that our information does not fully cover your circumstances, or you are unsure how it applies to you, contact us or seek professional advice.

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