


***MT 2008/2A2 - Addendum - Shortfall penalties:  
administrative penalty for taking a position that is not  
reasonably arguable***

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## Addendum

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### Miscellaneous Taxation Ruling

#### Shortfall penalties: administrative penalty for taking a position that is not reasonably arguable

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Miscellaneous Taxation Ruling MT 2008/02 to take into account the commencement of the Minerals Resource Rent Tax (MRRT) from 1 July 2012 recognising that the lack of reasonably arguable position shortfall penalty contained in Division 284 of Schedule 1 to the *Taxation Administration Act 1953* will apply to MRRT.

#### **MT 2008/2 is amended as follows:**

**1. Paragraph 4**

Omit 'income tax law'; substitute 'relevant tax law, which, for the purposes of this Ruling, is an income tax and minerals resource rent tax (MRRT) law'

**2. Paragraph 14**

After the second dot point insert:

- MRRT matters for the year commencing 1 July 2012 and later years; and

**3. Paragraph 16**

After 'goods and services tax'; insert ', MRRT, petroleum resource rent tax'

**4. Paragraphs 17, 19, 32, 68, 70 and 80**

Omit 'an income tax law'; substitute 'a relevant tax law'.

**5. Paragraph 21**

Omit 'income tax law'; substitute 'relevant tax law'.

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## 6. Paragraphs 27 and 29

Omit 'income'.

## 7. Paragraph 33

Omit the first dot point, substitute:

- where the shortfall amount exceeds the greater of \$10,000 or 1% of the tax payable for the tax year on the basis of the entity's tax return (item 4 in the table in subsection 284-90(1)); or

## 8. Heading preceding paragraph 72

Omit the heading; substitute:

*Example 4 – error of fact – income tax matter*

## 9. Paragraph 76

After paragraph 76 add:

### **MRRT law**

76A. MRRT law under section 300-1 of the *Minerals Resource Rent Tax Act 2012* (MRRTA) means:

- (a) MRRTA;
- (b) any Act that imposes MRRT;
- (c) the TAA, so far as it relates to any Act covered by paragraphs (a) and (b);
- (d) any other Act, so far as it relates to any Act covered by paragraphs (a) to (c) (or to so much of that Act as is covered); and
- (e) regulations under an Act, so far as they relate to any Act covered by paragraphs (a) to (d) (or to so much of that Act as is covered).

## 10. Paragraph 85

Omit:

Example 4 – error of fact 72

Insert:

Example 4 – error of fact – income tax matter 72

MRRT Law 76A

**11. Legislative references**

Insert:

- MRRTA 2012
- MRRTA 2012 300-1

This Addendum applies on and from 1 July 2012, the day of commencement of the MRRT.

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**Commissioner of Taxation**

11 July 2012

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ATO references

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