



Addendum

Taxation Ruling

Income tax: necessitous circumstances funds

This Addendum amends Taxation Ruling TR 2000/9 in light of the decision in *Trustees of the Indigenous Barristers' Trust v. FC of T* 2002 ATC 5055; (2002) 51 ATR 495.

Taxation Ruling TR 2000/9 is amended as follows:

After Paragraph 32

Insert a new paragraph:

32A. In *Trustees of the Indigenous Barristers' Trust v. FC of T* 2002 ATC 5055; (2002) 51 ATR 495, some comments made by the Federal Court could be taken to imply that necessitous circumstances are not limited to financial necessity, and that they extend to the same range of needs addressed by public benevolent institutions (see for example at ATC 5076-5077; ATR 518-519). In so far as those comments could be taken to imply that needs – such as suffering, helplessness, misfortune or disability – constitute necessitous circumstances independently of financial necessity, they are considered to be inconsistent with the approach of the High Court in *Ballarat Trustees*. *Ballarat Trustees* will therefore continue to be followed in the administration of the law.

This Addendum has the same application as Taxation Ruling TR 2000/9; that is, it applies to years commencing both before and after its date of issue.

Commissioner of Taxation

27 August 2003

ATO references

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