


MT 2006/1A2 - Addendum - The New Tax System: the meaning of entity carrying on an enterprise for the purposes of entitlement to an Australian Business Number

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Addendum

Miscellaneous Taxation Ruling

The New Tax System: the meaning of entity carrying on an enterprise for the purposes of entitlement to an Australian Business Number

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends MT 2006/1, in order to refer to aspects of the decision in *Commissioner of Taxation v. MBI Properties Pty Ltd* [2014] HCA 49; 2014 ATC 20-474, that concern the definition of an enterprise in paragraph 9-20(1)(c) of the *A New Tax System (Goods and Services Tax) Act 1999*.

MT 2006/1 is amended as follows:

1. Paragraph 6

Omit 'A New Tax System (Australian Business Number) Act 1999 (ABN Act)'; substitute 'ABN Act'.

2. Paragraph 70

Omit 'of the ABN Act'.

3. Footnote 57

After '*Body Corporate Villa*'; insert a comma.

4. Paragraph 240

Omit 'Income Tax'; substitute 'Taxation'.

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5. Paragraph 306

After the paragraph; insert:

306A. In *Commissioner of Taxation v. MBI Properties Pty Ltd* [2014] HCA 49; 2014 ATC 20-474 (*MBI Case*) at [37], the High Court noted that in observing and continuing to observe the obligation to provide quiet enjoyment under a lease, a lessor is appropriately regarded as engaging in an activity done on a regular or continuous basis in the form of a lease. The High Court noted further that, whether or not the lessor might also be engaged in some other form of enterprise, it makes a supply of the use and occupation of leased premises in the course of carrying on an enterprise as defined in paragraph 9-20(1)(c) of the GST Act. In this context, consistent with the High Court decision in the *MBI Case*, the reference to a lessor is not considered to be limited to the entity that grants a lease in the premises, and includes an entity that acquires premises subject to an existing lease.

6. Legislative references

Omit:

- TAA 1953 Pt IVA
- Administration Decisions (Judicial Review) Act 1977 5(1)(b)

Insert:

- ANTS(ABN)A 1999 16
- ANTS(GST)A 1999 9-20(1)
- Administrative Decisions (Judicial Review) Act 1977 5(1)(b)

7. Case references

Insert:

- *Commissioner of Taxation v. MBI Properties Pty Ltd* [2014] HCA 49; 2014 ATC 20-474

This Addendum applies on and from 3 December 2014.

Commissioner of Taxation

25 February 2015

ATO references

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