



# ***TR 2018/7ER - Erratum - Income tax: employee remuneration trusts***

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# Erratum

## Taxation Ruling

### Income tax: employee remuneration trusts

This Erratum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It corrects minor errors to case references, legislative references and the Detailed contents list in Taxation Ruling TR 2018/7, as appropriate.

#### TR 2018/7 is corrected as follows:

##### 1. Paragraph 4

Omit footnote 9; substitute:

<sup>9</sup> Refer to *Blank v. Federal Commissioner of Taxation* (2016) 258 CLR 439; [2016] HCA 42; (2016) 104 ATR 41.

##### 2. Paragraph 9

(a) In footnote 13, omit both instances of 'Federal'.

(b) Omit footnote 15; substitute:

<sup>15</sup> Refer to *Ronpibon Tin NL v. Federal Commissioner of Taxation* (1949) 78 CLR 47 at 55-58; [1949] HCA 15 at [9]-[15]; (1949) ATD 431 at 434-436 and *Magna Alloys & Research Pty Ltd v. Federal Commissioner of Taxation* [1980] FCA 150; 80 ATC 4542 at 4559-4561; (1980) 11 ATR 276 at 294-297.

##### 3. Paragraph 10

Omit footnotes 19, 20 and 21 substitute:

<sup>19</sup> As to the nature of benefits refer to *Re Wensemius v. Federal Commissioner of Taxation* [2007] AATA 1006 at [97]-[98]; 2007 ATC 2035 at 2051-2052; (2007) 66 ATR 144 at 163-164 (*Wensemius*).

<sup>20</sup> Refer to *Re Benstead Services Pty Ltd v. Federal Commissioner of Taxation* [2006] AATA 976 at [47]-[52]; 2006 ATC 2511 at 2517-2518; (2006) 64 ATR 1232 at 1240.

<sup>21</sup> Refer to *Essenbourne Pty Ltd v. Federal Commissioner of Taxation* [2002] FCA 1577 at [32]; 2002 ATC 5201 at 5208; 51 ATR 629 at 636 (*Essenbourne*).

##### 4. Paragraph 19

(a) In footnote 27, omit '[1926]'; substitute '[1926]'.

(b) Omit footnote 28; substitute:

<sup>28</sup> Refer to *Ransburg Australia Pty Ltd v. Federal Commissioner of Taxation* [1980] FCA 31; 80 ATC 4114 at 4121; (1980) 10 ATR 663 at 669, per Fisher J.

**5. Paragraph 31**

In footnote 39, omit 'at 23'; substitute 'at 23'.

**6. Paragraph 32**

In footnote 40, insert space after 'v.'.

**7. Paragraph 43**

- (a) Omit 'FBTA'; substitute '*Fringe Benefits Tax Act 1986*'.
- (b) In footnote 52, omit 'FBTA'; substitute '*Fringe Benefits Tax Act 1986*'.

**8. Paragraph 45**

In footnote 56, omit '(1981) 50 FLR 219; (1981) 34 ALR 237;'.

**9. Paragraph 54**

In footnote 62, omit '; and'; substitute ' and'.

**10. Paragraph 74**

In footnote 82, omit 'See'; substitute 'Refer to'.

**11. Paragraph 89**

Remove space after 'this Ruling'.

**12. Paragraph 95**

In the Detailed contents list, indent heading '*When is a trustee assessed on amounts of the section 95 net income?*'.

**13. References**

- (a) Omit from '*Related Rulings/Determinations:*' 'IT 2385; TR 2001/10; TR 2008/5; TR 2012/D1'.
- (b) Insert '*ITAA 1997 83A-10(1)*' to '*Legislative references:*'.
- (c) Omit all cases from '*Cases relied on*'; substitute:
  - Re Benstead Services Pty Ltd v. Federal Commissioner of Taxation [2006] AATA 976; (2006) 64 ATR 1232; 2006 ATC 2511
  - Blank v. Federal Commissioner of Taxation [2016] HCA 42; (2016) 104 ATR 41; 2016 ATC 20-587
  - British Insulated and Helsby Cables v. Atherton [1926] AC 205
  - Case C57 71 ATC 250
  - Cases Nos 260-262/1982 83 ATC 430
  - Deputy Commissioner of Taxation v. Applied Design Development Pty Ltd (in liq) (2002) 117 FCR 336;

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- [2002] FCA 205; (2002) 49 ATR 196; 2002 ATC 4193
  - Essenbourne Pty Ltd v. Federal Commissioner of Taxation [2002] FCA 1577; 2002 ATC 5201; (2002) 51 ATR 629
  - Re Experienced Tours Pty Ltd v. Federal Commissioner of Taxation [2006] AATA 517; (2006) 63 ATR 1147; 2006 ATC 2232
  - Federal Commissioner of Taxation v. Belford (1952) 88 CLR 589; [1952] HCA 73
  - Federal Commissioner of Taxation v. Dixon (1952) 86 CLR 540; [1952] HCA 65; (1952) 10 ATD 82
  - Federal Commissioner of Taxation v. H [2010] FCAFC 128; (2010) 188 FCR 440; 2010 ATC 20-218; (2010) 85 ATR 357
  - Federal Commissioner of Taxation v. Indooroopilly Children Services (Qld) Pty Ltd (2007) 158 FCR 325; [2007] FCAFC 16; 2007 ATC 4236; (2007) 65 ATR 369
  - Federal Commissioner of Taxation v. McArdle (1988) 19 ATR 1901; 89 ATC 4051
  - GP International Pipecoaters Pty Ltd v. Commissioner of Taxation (1990) 170 CLR 124; [1990] HCA 25; (1990) 21 ATR 1; 90 ATC 4413
  - Goodman Fielder Wattie Ltd v. Federal Commissioner of Taxation (1991) 29 FCR 376; (1991) 22 ATR 26; 91 ATC 4438
  - Hallstroms Pty Ltd v. Federal Commissioner of Taxation (1946) 72 CLR 634; [1946] HCA 34; (1946) 8 ATD 190
  - Inchyra (Baron) v. Jennings (Inspector of Taxes) [1966] 1 Ch 37; [1965] 2 All ER 714
  - Jackson's Trustees v. Commissioners of Inland Revenue (1942) 25 TC 13
  - Magna Alloys and Research Pty Ltd v. Federal Commissioner of Taxation [1980] FCA 150; (1980) 11 ATR 276; 80 ATC 4542
  - Murdoch v. Commissioner of Pay-Roll Tax (Vic) (1980) 143 CLR 629; [1980] HCA 33; 80 ATC 4424; (1980) 11 ATR 135
  - Mutual Acceptance Co Ltd v. Federal Commissioner of Taxation (1944) 69 CLR 389; [1944] HCA 34; (1944) 7 ATD 506
  - Pridecraft Pty Ltd v. Federal Commissioner of Taxation [2004] FCAFC 339; 2005 ATC 4001
  - Ransburg Australia Pty Ltd v. Federal Commissioner of Taxation [1980] FCA 4114; 80 ATC 4114; (1980) 10 ATR 663
  - Ronpibon Tin NL v. Federal Commissioner of Taxation (1949) 78 CLR 47; [1949] HCA 15; (1949) 8 ATD 431
  - Sent v. Federal Commissioner of Taxation [2012] FCA 382; 2012 ATC 20-318; (2012) 85 ATR 1
  - Re Soubra v. Federal Commissioner of Taxation [2009] AATA 2009 ATC 10-113; (2009) 77 ATR 946
  - Spotlight Stores Pty Ltd v. Federal Commissioner of Taxation [2004] FCA 650; 2004 ATC 4674; (2004) 55 ATR 745
  - Union-Fidelity Trustee Co (Aust) Ltd v. Federal Commissioner of Taxation (1969) 119 CLR 177; [1969] HCA 36; 69 ATC 4084; (1969) 1 ATR 200
  - Ure v. Federal Commissioner of Taxation [1981] FCA 9; 81 ATC 4100; (1981) 11 ATR 484
  - Re Wensemius v. Federal Commissioner of Taxation [2007] AATA 1006; 2007 ATC 2035; (2007) 66 ATR 144
  - Re Yip v. Federal Commissioner of Taxation [2011] AATA 785; 2011 ATC 10-214; (2011) 82 ATR 761

This Erratum applies on and from 31 October 2018.

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**Commissioner of Taxation**

21 November 2018

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ATO references

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