



INSTITUTE OF  
**PUBLIC  
ACCOUNTANTS®**

# Annual Taxation Determinations

March 2019

## Introduction

The Institute of Public Accountants (IPA) welcomes the opportunity to offer our submission in response to “Annual Taxation Determinations” consultation paper.

The IPA is one of the three professional accounting bodies in Australia, representing over 36,000 accountants, business advisers, academics and students throughout Australia and internationally. The IPA prides itself in not only representing the interests of accountants but also small business and their advisors.

We look forward to discussing in more detail the IPA’s submission. Please address any further enquires to Tony Greco, General Manager Technical Policy via [tony.greco@publicaccountants.org.au](mailto:tony.greco@publicaccountants.org.au)

March 2019

Public Advice and Guidance  
Australian Taxation Office

Via email: [publicguidance@ato.gov.au](mailto:publicguidance@ato.gov.au)

Contact: Pei-Sheng Hsu

## **Annual Taxation Determinations**

The IPA welcomes the opportunity to provide this submission in response to the Annual Taxation Determinations consultation paper.

We have one main concern that we wish to raise in response to the consultation paper. A Taxation Determination is considered a public ruling and as such, is legally binding advice issued by the Australian Taxation Office (ATO). Public rulings are long being held as binding advice and express the ATO's interpretation of a particular provision of the law they administer.

Where you rely on the binding parts of a public ruling, the law protects you from having to pay a tax shortfall if the advice turns out to be incorrect and you then make a mistake. In addition, the ATO will apply the law as set out in the ruling, and therefore any false and misleading penalty and interest on the tax shortfall will not apply. The same cannot be said for material published on the ATO website. Material published on the ATO website is generally considered to be guidance only and is not binding on the ATO. It does not have the protections of a public ruling.

As we operate under a self-assessment environment, it is important for taxpayers to have protections afforded by a public ruling if tax determinations are to be replaced with website information.

Notwithstanding, where the Commissioner is just updating a number due to movements in a relevant Consumer Price Index, we do not foresee any issues with this type of information being placed on the ATO website instead of a Tax Determination. This is on the proviso that if the information is incorrect and taxpayers

have relied on data, then penalties would not apply under these circumstances. As data on the website can be changed without leaving an audit trail, there needs to be a way to show historic changes to any updated figures in case of disputes. The updating of website information is not subject to a robust process compared to the compilation of a tax determination and therefore there must be full transparency over the data posted on the ATO website in case information changes over time.

We trust that you will find our submission of value. Please feel free to contact me directly should you require further clarification on any of the issues raised or other questions related to our submission.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Tony Greco', with a stylized flourish at the end.

Tony Greco  
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