TD 1999/15 - Income tax: interest withholding tax exemption under section 128F of the Income Tax Assessment Act 1936 - for the purposes of the third public offer test in paragraph 128F(3)(c):(a) what is required to establish that a debenture has been offered for issue as a result of being accepted for listing? (b) does the issue of a debenture satisfy the public offer test if the listing of the debenture by a stock exchange takes place following the issue where an agreement exists with the dealer, manager or underwriter requiring listing to take place?

This cover sheet is provided for information only. It does not form part of *TD 1999/15 - Income tax: interest withholding tax exemption under section 128F of the Income Tax Assessment Act 1936 - for the purposes of the third public offer test in paragraph 128F(3)(c):(a) what is required to establish that a debenture has been offered for issue as a result of being accepted for listing? (b) does the issue of a debenture satisfy the public offer test if the listing of the debenture by a stock exchange takes place following the issue where an agreement exists with the dealer, manager or underwriter requiring listing to take place?*

Australian Taxation Office

Taxation Determination TD 1999/15

Taxation Determination

Income tax: interest withholding tax exemption under section 128F of the *Income Tax Assessment Act 1936* – for the purposes of the third public offer test in paragraph 128F(3)(c):

(a) what is required to establish that a debenture has been offered for issue *as a result of being accepted for listing*?

(b) does the issue of a debenture satisfy the public offer test if the listing of the debenture by a stock exchange takes place following the issue where an agreement exists with the dealer, manager or underwriter requiring listing to take place?

Preamble

This Taxation Determination is a 'public ruling' for the purposes of Part IVAAA of the ***Taxation Administration Act 1953*** *and is legally binding on the Commissioner. Taxation Rulings TR 92/1 and TR 97/16 together explain when a Determination is a public ruling and how it is legally binding.*

Date of effect

This determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

1. It is accepted that a debenture has **been offered for issue as a result of being accepted for listing** where:

   (i) an application is made for the debenture, or a tranche or series of debentures that includes the debenture, or the programme under which the debenture or such tranche or series is issued, to be admitted to, or accepted for, listing on a stock exchange whether or not subject to conditions; and

   (ii) the company has previously entered into an agreement with its dealer, manager or underwriter that requires the company to seek such a listing and to endeavour to maintain the listing.

2. It is expected an application would be made and the debenture be admitted to, or accepted for, listing as soon as practicable after the issue of the debenture.

3. It is accepted that debentures would satisfy the third public offer test where the company has agreed with its dealers, managers, or underwriters to have the debentures listed on a stock exchange following issue, and the debentures are so listed following the issue.

Commissioner of Taxation
12 May 1999

Previous draft:
TD 1999/D8

Related Rulings/Determinations:
TD 1999/8; TD 1999/9; TD 1999/10; TD 1999/11; TD 1999/12; TD 1999/13; TD 1999/14; TD 1999/16; TD 1999/17; TD 1999/18; TD 1999/19; TD 1999/20; TD 1999/21; TD 1999/22; TD 1999/23; TD 1999/24; TD 1999/25; TD 1999/26

Subject references:

Legislative references:
ITAA 128F; ITAA 128F(3)(c)

Case references:

ATO references:
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