TD 1999/23 - Income tax: interest withholding tax exemption under section 128F of the Income Tax Assessment Act 1936 - does section 128F apply to debentures under which the yield is determined by a variable indexation factor rather than by being fixed?

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Generated on: 5 June 2026, 03:33:27 AM

Taxation Determination

Income tax: interest withholding tax exemption under section 128F of the *Income Tax Assessment Act 1936* - does section 128F apply to debentures under which the yield is determined by a variable indexation factor rather than by being fixed?

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. Yes. Section 128F applies to any debenture as defined in subsection 128F(9). For the purposes of this section, 'debenture' is given a wider meaning than under subsection 6(1). It includes a promissory note or bill of exchange, in addition to common securities such as debenture stocks, bonds and notes, or any other securities of a company.

2. Accordingly, provided the requirements of 128F are otherwise satisfied, the section applies to structured or indexed notes under which the yield (but not the principal amount) is determined by a variable factor and which may vary by an amount greater than or equal to zero.

Commissioner of Taxation
12 May 1999

Previous draft:
TD 1999/D16

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 1999/15; TD 1999/16; TD 1999/17; TD 1999/18; TD 1999/19; TD 1999/20; TD 1999/21; TD 1999/22; TD 1999/24; TD 1999/25; TD 1999/26

Subject references:

Legislative references:
ITAA 6(1); ITAA 128F; ITAA 128F(9)

Case references:

ATO references:
NO 97/6464-0; 99/658-1
BO
FOI number: I 1018727
ISSN: 1038-8982