

# ***TD 28 - Capital Gains: Is the issue or redemption of redeemable preference shares taken into account in determining the application of section 160ZZS?***

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! This ruling contains references to repealed provisions, some of which may have been rewritten. The ruling still has effect. Paragraph 32 in TR 2006/10 provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.

! This document has changed over time. This is a consolidated version of the ruling which was published on *29 November 2006*

CGT Cell Determinations do not have the force of law, but can be relied upon as being the considered view of the ATO. Unless otherwise stated, the view expressed may be applied to transactions entered into both before and after the date of issue of the Determination.

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## CGT Determination Number 28

**Capital Gains: Is the issue or redemption of redeemable preference shares taken into account in determining the application of section 160ZZS?**

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### Determination

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1. The issue or redemption of redeemable preference shares by a company will be taken into account in applying the majority underlying interest test in section 160ZZS unless on the facts, the arrangement is seen to be a financing arrangement and treated as such by the parties for all purposes (including the section 46 rebate).

COMMISSIONER OF TAXATION  
28 November 1991

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FOI INDEX DETAIL: Reference No. CGT 28

Subject Ref: Redeemable preference shares

Legislative Ref: 160ZZS; 46     ATO Ref: TLG CGT 251187; 220988

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